



California Regulatory Notice Register

REGISTER 2002, NO. 36-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

SEPTEMBER 6, 2002

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

CALIFORNIA REGULATORY NOTICE REGISTER (ISSN 1041-2654) is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by the Office of State Publishing and is offered by subscription for \$302.00 (annual price). To order, call (916) 445-5391. Periodicals postage paid at Sacramento, CA and additional mailing offices. **POSTMASTER:** Send address changes to the: CALIFORNIA REGULATORY NOTICE REGISTER, Customer Coordinator, Office of State Publishing, 344 N. 7th Street, Room 104, Sacramento, CA 95814-0212.

PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by the Office of State Publishing.

TITLE 2. STATE ALLOCATION BOARD

NOTICE OF PROPOSED REGULATORY ACTION

THE STATE ALLOCATION BOARD
PROPOSES TO ADOPT AND AMEND
REGULATION SECTIONS, TITLE 2,
CALIFORNIA CODE OF REGULATIONS
RELATING TO LEROY F. GREENE SCHOOL
FACILITIES ACT OF 1998

PROPOSED AMENDMENTS TO REGULATION
SECTIONS: 1859.2, 1859.74, 1859.76, 1859.77.1,
1859.81.1, 1859.90, 1859.103, AND 1859.104

REGULATION SECTIONS PROPOSED FOR
ADOPTION: 1859.74.5, 1859.74.6, 1859.81.2,
1859.81.3, AND 1859.105.2

PROPOSED AMENDMENTS TO: *Application for
Funding*, Form SAB 50-04 (Revised 08/02), Refer-
enced in Regulation Sections 1859.2, 1859.21,
1859.50, 1859.70, 1859.73.1, 1859.73.2, 1859.74.1,
1859.75.1, 1859.76, 1859.78.2, 1859.79.3, 1859.81,
1859.81.1, 1859.82, 1859.100, 1859.101, 1859.102,
AND 1859.107

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend and adopt the above-referenced regulation sections contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the OPSC, at its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amend these regulations under the authority provided by Sections 17070.35, 17072.13, and 17075.15 of the Education Code. The proposals interpret and make specific reference to Sections 17070.35, 17070.51, 17070.63, 17072.12, 17072.13, 17072.20, 17072.30, 17072.33, 17072.35, 17074.15, 17076.10, 17077.10, and 17251 of the Education Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The SAB adopted regulations to implement the Leroy F. Greene School Facility Act of 1998, which were approved by the Office of Administrative Law and filed with the Secretary of State on October 8, 1999. Adoptions and amendments to these regulations are being proposed.

Existing Regulation Section 1859.2 represents a set of defined words and terms used exclusively for these regulations. The proposed amendments provide additional specific terms essential to these regulations.

Existing Regulation Section 1859.74 establishes an additional grant amount for allowable site acquisition costs. The proposed amendment includes an exception for qualifying for an additional grant for site acquisition cost.

Proposed adoption of Regulation Section 1859.74.5 allows a new construction additional grant for a district-owned site based on the appraised value, under certain conditions.

Proposed adoption of Regulation Section 1859.74.6 provides direction on the development of the cost benefit analysis required on the merits of using of a district-owned site.

Existing Regulation Section 1859.76 establishes additional grant amounts for allowable site development costs, requires the district to submit a detailed cost estimate, and establishes the standards for reasonableness of costs. It also defines the components for parking structures in a project. The proposed amendment provides clarification to the definition of a qualifying parking structure.

Existing Regulation Section 1859.77.1 establishes the required amount for the district's matching share for new construction grants, new construction additional grants, facility hardship grants, and excessive cost hardship grants. The proposed amendment provides an exception to the district matching share requirement for the additional funding provided for certain district-owned sites.

Existing Regulation Section 1859.81.1 specifies the limits for separate grant amounts for those districts meeting the financial hardship requirements, provides for an off-set in certain circumstances, and establishes the procedure for a district seeking a separate

apportionment. The proposed amendment provides an exception to the required financial hardship criteria for a separate apportionment for site acquisition or design costs.

Proposed adoption of Regulation Section 1859.81.2 allows financial hardship districts to receive a separate apportionment for district-owned site acquisition costs, even when there is no district matching share requirement.

Proposed adoption of Regulation Section 1859.81.3 provides specificity as to the use of a district-owned site acquisition apportionment.

Existing Regulation Section 1859.90 provides a mechanism for the release of new construction and modernization funds, and specifies a timeframe for the release of State funds. The proposed amendment provides an exception to the fund release of a district-owned site acquisition apportionment.

Existing Regulation Section 1859.103 identifies School Facility Program (SFP) project savings, and establishes when and how the savings may be utilized. It also specifies how interest earned on financial hardship projects will be treated. The proposed amendment identifies another component for which project savings may be used towards, and provides an exception to the required use of savings that reduces the financial hardship grant for apportionments made for district-owned site acquisition.

Existing Regulation Section 1859.104 provides a mechanism for a district to report all relevant SFP project information. It also requires a district to submit a progress report 12 months from the date site acquisition funds were apportioned. The proposed amendments provide specificity regarding reporting requirements for district-owned site acquisition apportionments.

Proposed adoption of Regulation Section 1859.105.2 provides accountability requirements for district-owned site acquisition apportionments.

Existing Form SAB 50-04, *Application for Funding*, is used when a district is seeking funding for a new construction or modernization project. It is being amended to incorporate language that is consistent with Sections 1859.74.5, 1859.74.6, and 1859.81.2, noted above. The revision date is being changed in every regulation section that references this form.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the state pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not

require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.

ECONOMIC IMPACT

The Executive Officer of the SAB has assessed the potential for significant adverse economic impact on businesses or private persons that might result from the proposed regulatory action and the following determinations have been made relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- There will be no impact on the creation or elimination of jobs within the state, the creation of new businesses or the elimination of existing businesses or the expansion of businesses in California.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- There will be no costs to school districts except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the state.
- There are no costs or savings to any State agency.
- The SAB had made an initial determination that there will be no impact on housing costs.

EFFECT ON SMALL BUSINESSES

It has been determined that the adoption of the regulation sections will not affect small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. These regulations only apply to school districts for purposes of funding school facility projects.

SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax, must be received at the Office of Public School Construction (OPSC) no later than October 21, 2002 at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Lisa Jones
Regulations Coordinator

Mailing Address: Office of Public School
Construction
1130 K Street, Suite 400
Sacramento, CA 95814

E-mail Address: lisa.jones@dgs.ca.gov

Fax No.: (916) 445-5526

AGENCY CONTACT PERSONS

Questions regarding this Notice of Proposed Regulatory Action may be directed to Lisa Jones at (916) 322-1043. If Ms. Jones is unavailable, questions may be directed to the backup contact person, Dennis Boydston, at (916) 322-0327.

ADOPTION OF REGULATIONS

Please note that following the public comment period, the SAB may adopt the regulations substantially as proposed in this notice or with modifications which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulation should be addressed to the agency's regulation coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.

SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in ~~strikeout~~/underline.
2. A copy of this notice.
3. A copy of the Initial Statement of Reasons
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments is received, they will be added to the rulemaking file. The file is available for public inspection at the OPSC during normal working hours. Items 1 through 3 are also available on the OPSC Internet Web site at: <http://www.opsc.dgs.ca.gov> under "Regulations," then click on "Proposed Regulations."

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the SAB must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SAB would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency's regulation coordinator named in this notice or may be accessed on the Web site listed above.

TITLE 2. STATE TREASURER'S OFFICE

NOTICE OF INTENTION TO AMEND CONFLICT OF INTEREST CODE

NOTICE IS HEREBY GIVEN that PHILIP ANGELIDES, the Treasurer of the State of California, intends to amend the conflict of interest code of the Office of the State Treasurer, and of the following State boards, authorities, commissions and committees chaired by the Treasurer, pursuant to Government Code Section 87302:

- Office of the State Treasurer
- California Alternative Energy and Advanced Transportation Financing Authority

- California Debt and Investment Advisory Commission
- California Debt Limit Allocation Committee
- California Educational Facilities Authority
- California Health Facilities Financing Authority
- California Industrial Development Financing Advisory Commission
- California Pollution Control Financing Authority
- California School Finance Authority
- California Urban Waterfront Area Restoration Financing Authority
- Local Agency Investment Advisory Board
- California Tax Credit Allocation Committee
- Pooled Money Investment Board
- ScholarShare Investment Board

Pursuant to Government Code Sections 87300–87302, the conflict of interest code will designate employees who must disclose certain investments, income, interests in real property and business positions, and who must disqualify themselves from making or participating in the making of governmental decisions affecting those interests. The amendments are proposed to revise and update the list of designated employees, as well as the list of members of the boards, authorities, commissions and committees listed above. The amendments include:

1. Addition of designated positions in the State Treasurer's Office;
2. Addition of a new disclosure group; and
3. Deletion of positions in the State Treasurer's Office.

WRITTEN COMMENT PERIOD

A written comment period has been established commencing on September 6, 2002, and terminating on November 8, 2002. Any interested person may present written comments concerning the proposed amendments to the conflict of interest code no later than November 8, 2002 to:

State Treasurer's Office
Attention: Thomas J. Noguerola
915 Capitol Mall, Room 110
Sacramento, California 95814
Post Office Box 942809
Sacramento, California 94209-0001

No public hearing on this matter will be held unless any interested person or his or her representative requests a public hearing. Such a request must be submitted no later than 15 days prior to the close of the written comment period.

The Treasurer has prepared a written explanation of the reasons for the designations and the disclosure responsibilities and has available all of the information upon which its proposal is based.

AGENCY CONTACT

Copies of the proposed amendments to the conflict of interest code and all of the information upon which the amendments are based may be obtained, and any inquiries concerning the proposed amendments should be directed to:

State Treasurer's Office
Attention: Thomas J. Noguerola
915 Capitol Mall, Room 110
Sacramento, California 95814
Post Office Box 942809
Sacramento, California 94209-0001
Telephone: (916) 651-9479

ALTERNATIVES CONSIDERED

The Treasurer must determine that no alternative considered by the Treasurer would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

COST OR SAVINGS TO STATE AGENCIES

The proposed amendments to the conflict of interest code will not impose a cost or savings on any state agency.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The proposed amendments to the conflict of interest code impose no mandate on local agencies or school districts in which reimbursement is required under Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

NONDISCRETIONARY COST OR SAVINGS TO LOCAL AGENCIES

The proposed amendments to the conflict of interest code will not result in any nondiscretionary cost or savings to local agencies.

COST OR SAVINGS IN FEDERAL FUNDING TO THE STATE

The proposed amendments to the conflict of interest code will not impose cost or savings in federal funding to the state.

EFFECT ON HOUSING COSTS AND SMALL BUSINESSES

The proposed amendments to the conflict of interest code will have no significant effect on housing costs or on private persons, businesses or small businesses.

TITLE 4. CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY

Article 7, Sections 8072 and 8074 Title 4, Division 11 California Code of Regulations

NOTICE IS HEREBY GIVEN that the California Pollution Control Financing Authority (the "Authority"), organized and operating pursuant to Sections 44500 through 44563 of the California Health and Safety Code (the "Act"), proposes to adopt the proposed regulations described below after considering all comments, objections and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Authority proposes to amend Sections 8072 and 8074 of the California Code of Regulations (the "Amended Capital Access Regulations"). The Amended Capital Access Regulations revise the current regulations to be more consistent with the intent of the California Capital Access Loan Program for Small Businesses ("CalCAP" or "the Program"), i.e., assisting the financial institutions in making loans to small businesses in California. The Amended Capital Access Regulations have previously been adopted as Emergency Regulations, which will expire on February 5, 2003; this proceeding is designed to adopt them permanently.

AUTHORITY AND REFERENCE

Authority: Sections 44520 and 44559.5(f), Health and Safety Code. The Amended Capital Access Regulations are authorized by Sections 44520 and 44559.5(f) of the Act.

Reference: Sections 44559, 44559.4 and 44559.5, Health and Safety Code. The Amended Capital Access Regulations implement, interpret or make specific Sections 44559, 44559.4 and 44559.5 of the Health and Safety Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law authorizes the Authority to adopt necessary regulations relating to the Program (Health and Safety Code, Section 44559.5(f)). The purpose of the Amended Capital Access Regulations is to make technical adjustments to the Program's rules governing loan enrollment and loss reimbursement to ease burdens on participating financial institutions in the Program.

Existing law provides that when a financial institution decides to enroll a qualified loan under CalCAP, the financial institution shall notify the Authority within 10 days after the date on which the

loan is made (Health and Safety Code, Section 44559.4(a)). Current CalCAP regulations define "the date on which the loan is made" as the earlier of two specific action dates (Section 8072(b)(1)). The Amended Capital Access Regulations would re-define "the date on which the loan is made" to be the date loan funds are first disbursed to the borrower (which is the later of the two specific action dates in the existing Regulations).

Current CalCAP regulations state the financial institution shall notify the Authority within 60-days after any loan extension or renewal. If the financial institution fails to notify the Authority within such 60-day period, the loan is terminated from the Program (Section 8072(g)). The Amended Capital Access Regulations would delete this termination provision.

Existing law provides that the Authority shall establish procedures under which financial institutions may submit claims for reimbursement for losses incurred as a result of qualified loan defaults (Health and Safety Code, Section 44559.5(a)). Current CalCAP regulations lay out the information that must be included in a financial institution's claim for reimbursement (Section 8074(d)). The regulations also authorize the Authority to request additional information to determine if a claim shall be paid (Section 8074(c)). The Amended Capital Access Regulations would add language to the claim for reimbursement form, stating to the effect that the financial institution certifies the loan was properly enrolled into CalCAP and is still enrolled in the Program.

OTHER MATTERS PRESCRIBED BY STATUTES APPLICABLE TO THE SPECIFIC STATE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

No other matters prescribed by statute are applicable to the Authority or to any specific regulation or class of regulations pursuant to 11346.5(a)(4) of the California Government Code pertaining to the proposed regulations or to the Authority.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Authority has determined that the Amended Capital Access Regulations do not impose a mandate on local agencies or school districts.

FISCAL IMPACT

The Authority has determined, pursuant to Government Code Section 11346.5(a)(6), that the Amended Capital Access Regulations do not impose any additional cost or savings to any state agency or cost to any local agency or school district requiring reimbursement under Government Code Sections 17500 through 17630, any other non-discretionary cost or

savings to any local agency or any cost or savings in federal funding to the State. Pursuant to the State Administrative Manual Section 6680, a Fiscal Impact Statement (Form 399) is submitted without the signature of a Project Budget Manager at the Department of Finance, as there are no fiscal impact disclosures required by State Administrative Manual Sections 6600-6670.

**INITIAL DETERMINATION REGARDING ANY
SIGNIFICANT, STATEWIDE ADVERSE
ECONOMIC IMPACT DIRECTLY
AFFECTING BUSINESS**

The Authority has made an initial determination that the Amended Capital Access Regulations will not have any significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES

The Authority has determined that the adoption of the Amended Capital Access Regulations will not affect small business. Its purpose is to make administrative, technical adjustments to the Programs's rules to ease burdens on participating lending institutions in the Program.

COST IMPACTS

The Authority is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the Amended Capital Access Regulations.

**ASSESSMENT OF EFFECT ON JOBS AND
BUSINESS EXPANSION, ELIMINATION
OR CREATION**

The Authority has determined, pursuant to Government Code Section 11346.3(b), that by making the Program easier for financial institutions to use, the Amended Capital Access Regulations are likely to have a positive effect on (a) the creation or elimination of jobs, (b) the creation of new businesses, and (c) the expansion of existing businesses, within the State of California.

COST IMPACT ON HOUSING

The Amended Capital Access Regulations will not have any effect on housing costs.

REASONABLE ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Authority must determine that no reasonable alternative to the Amended Capital Access Regulations considered by the Authority or that has otherwise been identified and brought to the attention of the Authority would be more effective in carrying out the purpose for which the Amended Capital Access

Regulations are proposed or would be as effective and less burdensome to affected private persons than the Amended Capital Access Regulations.

The Authority invites interested persons to present statements with respect to alternatives to the Amended Capital Access Regulations during the written comment period.

AGENCY CONTACT PERSON

Written comments, inquiries and any questions regarding the substance of the Amended Capital Access Regulations shall be submitted or directed to:

Karen Newquist, Program Manager
California Pollution Control Financing Authority
915 Capitol Mall, Room 457
Sacramento, California 95814
Telephone: (916) 654-5610
Fax: (916) 657-4821
Email: knewquist@treasurer.ca.gov

The following person is designated as a backup contact person for inquiries only regarding the Amended Capital Access Regulations:

Dona Yee, Analyst
California Pollution Control Financing Authority
Telephone: (916) 654-5610

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the Amended Capital Access Regulations to the Authority. The written comment period on the Amended Capital Access Regulations will end at 5:00 p.m. on October 21, 2002. All comments must be submitted in writing to the Agency Contact Person identified in this Notice by that time in order for them to be considered by the Authority. In the event that changes are made to the Amended Capital Access Regulations during the written comment period, the Authority will also accept additional written comments limited to any changed or modified Amended Capital Access Regulations for 15 calendar days after the date on which such Amended Capital Access Regulations, as changed or modified, are made available to the public pursuant to Title 1, Chapter 1, Section 44 of the California Code of Regulations. Such additional written comments should be addressed to the Agency Contact Person identified in this Notice.

**AVAILABILITY OF INITIAL STATEMENT OF
REASONS, RULEMAKING FILE AND EXPRESS
TERMS OF THE PROPOSED AMENDED
CAPITAL ACCESS REGULATIONS**

Pursuant to the California Government Code, the Authority has established a rulemaking file for this regulatory action, which contains those items required by law. The file is available for inspection at the

Authority's office at 915 Capitol Mall, Room 457, Sacramento, California 95814, during normal business working hours. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this Notice, the Initial Statement of Reasons and the proposed text of the Amended Capital Access Regulations. Copies of these items are available, upon request, from the Agency Contact Person designated in this Notice. This address will also be the location for inspection of the rulemaking file and any other public records, including reports, documentation and other materials related to this proposed regulatory action. In addition, the rulemaking file, including the Initial Statement of Reasons and the proposed text, may be viewed on the Authority's web site at <http://www.treasurer.ca.gov/cpcf/>.

PUBLIC HEARING

No public hearing regarding the Amended Capital Access Regulations has been scheduled. Anyone wishing a public hearing must submit a request in writing, pursuant to Section 11346.8 of the Government Code, to the Authority at least 15 days before the end of the written comment period. Such request should be addressed to the Agency Contact Person identified in this Notice and should specify the Amended Capital Access Regulations for which the hearing is being requested.

15-DAY AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the written comment period ends and following a public hearing, if any is requested, the Authority may adopt the Amended Capital Access Regulations substantially as described in this Notice, without further notice. If the Authority makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public (including through the Authority's web site described above) for at least fifteen (15) calendar days before the Authority adopts the proposed Amended Capital Access Regulations, as modified. Inquiries about and requests for written copies of any changed or modified regulations should be addressed to the Agency Contact Person identified in this Notice.

AVAILABILITY OF FINAL STATEMENT OF REASONS

The Authority is required to prepare a Final Statement of Reasons pursuant to Government Code Section 11346.9. Once the Authority has prepared a Final Statement of Reasons, a copy will be made available to anyone who requests a copy and will be available on the Authority's web site described above. Requests for written copies should be addressed to the Agency Contact Person identified in this Notice.

TITLE 8. DIVISION OF LABOR STATISTICS AND RESEARCH

NOTICE IS HEREBY GIVEN that the Division of Labor Statistics and Research is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held beginning at 10 a.m. in the 10th floor conference room at 455 Golden Gate Avenue, San Francisco, California on October 22, 2002. These facilities are accessible to persons with mobility impairments.

Written comments must be received by mail, by fax or by email no later than 5:00 p.m. on October 22, 2002 or must be received at the hearing. Comments must be addressed to either of the following:

Robert Nakamura, Senior Industrial Hygienist
Department of Industrial Relations
Division of Occupational Safety and Health
455 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102
Fax: (415) 703-5114
email: DOSHInfo@dir.ca.gov

Ramon Cruz, Research Manager
Department of Industrial Relations
Division of Labor Statistics and Research
455 Golden Gate Avenue, 8th Floor
San Francisco, CA 94102
Fax: (415) 703-3029
email: DOSHInfo@dir.ca.gov

The official record of the rulemaking proceeding will be closed at 5:00 p.m. on October 22, 2002. The Division of Labor Statistics and Research shall not consider written comments received after that date and time unless an extension of time in which to receive specific written comments is announced at the public hearing.

The Division of Labor Statistics and Research may thereafter adopt the proposed regulations substantially as described below, or may modify it if such modification is sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification or any changes to the proposal.

AUTHORITY AND REFERENCE

Authority cited: Labor Code Section 6410.

Reference: Labor Code Section 6410.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

Pursuant to Labor Code Section 6410, the Division of Labor Statistics and Research (DLSR), a division within the Department of Industrial Relations, is charged with prescribing and providing the forms necessary for maintenance of records of occupational injuries and illnesses required by the United States Department of Labor under the Federal Occupational Safety and Health Act of 1970 (P.L. 91-596). Requirements for fulfilling this mandate are currently found in Article 2 of Subchapter 1, Chapter 7, Division 1 of Title 8 in the California Code of Regulations (“Article 2”).

On July 1, 2002, the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) promulgated revisions to regulations at 29 CFR 1904 addressing Occupational Injury and Illness Recording and Reporting Requirements. See Federal Register Volume 67, No. 126, pages 44037–44048. The State of California, through DLSR, is now required by the provisions of 29 CFR 1902.3(k), 29 CFR 1952.4, and 29 CFR 1956.10(i), to adopt regulations for recording of occupational injuries and illnesses that are substantially identical to the requirements of revised 29 CFR 1904.10; 29 CFR 1904.12; and 29 CFR 1904.29 Forms, subpart (b)(7)(vi).

DLSR now proposes to adopt requirements for the recording of occupational injuries and illness that are substantially identical to the requirements of revised 29 CFR 1904.10 “Recording criteria for cases involving occupational hearing loss, with the exception of paragraph (b)(7) How do I complete the 300 Log for a hearing loss case?” The OSHA final rule revises the criteria for recording hearing loss cases in several ways, including requiring the recording of Standard Threshold Shifts (10 dB shifts in hearing acuity) that have resulted in a total 25 dB level of hearing above audiometric zero, averaged over the frequencies at 2000, 3000, and 4000 Hz, beginning in year 2003.

DLSR also proposes to adopt identical implementation dates that are in revised 29 CFR 1904.12 “Recording criteria for cases involving work-related musculoskeletal disorders”; and 29 CFR 1904.29 “Forms”, subpart (b)(7)(vi). OSHA is delaying the effective dates of three provisions of the Occupational Injury and Illness Recording and Reporting Requirements rule that are presently scheduled to take effect on January 1, 2003 until January 1, 2004. The first defines “musculoskeletal disorder (MSD)” and requires employers to check the MSD column on the OSHA Log if an employee experiences a recordable musculoskeletal disorder. The second provision states that musculoskeletal disorders (MSDs) are not considered “privacy concern cases.” The third provi-

sion requires employers to enter a check mark in the hearing loss column on the 300 Log for cases involving occupational hearing loss. OSHA is requesting comment on these proposed delays.

To implement the new federal provisions, DLSR proposes to amend the existing provisions of Article 2, subsections 14300.12 by retaining the current language for another year and to amend 14300.29(b)(7) by amending the statement for the effective date of the second sentence. The third OSHA provision requires no amendment to the existing Cal/OSHA Form 300 which currently does not have a column for either musculoskeletal disorders or hearing loss.

MORE INFORMATION

The full text of the proposed regulations, and all information upon which the proposed regulations are based, including an initial statement of the reasons for the proposed regulations, are available upon request. Inquiries concerning the proposed regulations, including questions regarding the substance of the proposed regulations, may be directed to:

Robert Nakamura, Senior Industrial Hygienist
Department of Industrial Relations
Division of Occupational Safety and Health
455 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102
Phone: (415) 703-5160
Fax: (415) 703-5114

The designated back-up contact person is:

Ramon Cruz, Research Manager
Department of Industrial Relations
Division of Labor Statistics and Research
455 Golden Gate Avenue, 8th Floor
San Francisco, CA 94102
Phone: (415) 703-4757
Fax: (415) 703-3029

The Division’s rulemaking file on the proposed regulations is open for public inspection Monday through Friday, from 8:00 a.m. to 5:00 p.m., at 455 Golden Gate Avenue, 10th Floor, San Francisco, California. Interested parties may obtain copies of the Initial Statement of Reasons, the actual text of the proposed regulations, this notice, and the final statement of reasons, (once it has been prepared pursuant to Government Code Section 11346.9(a)) from the Division representatives named above, or from the Department’s website >www.dir.ca.gov<. Click on “Rulemaking—Proposed Regulations.”

**COST OR SAVINGS OF THE
PROPOSED REGULATIONS**

Costs or Savings to State Agencies: No costs or savings to state agencies will result as a consequence of the proposed regulations.

Impact on Housing Costs: The proposed regulations will not significantly affect housing costs.

Impact on Businesses: OSHA determined the nationwide cost of the regulatory change to be \$1,049,650 and concluded that this was not an economically significant cost (67FR44045). Based upon the Federal analysis, the Division concurs that the California portion of costs from the proposed regulations will not result in a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impacts on Representative Private Persons or Businesses: The Division is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulations.

Costs or Savings in Federal Funding to the State: The proposed regulations will not result in costs or savings in federal funding to the State.

Costs or Savings to Local Agencies or School Districts: No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate".

Other Nondiscretionary Costs or Savings Imposed on Local Agencies: The proposed regulations do not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The proposed regulations do not impose a mandate on local agencies or school districts. The Division has determined that the proposed regulations do not impose a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed regulations do not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.).

The proposed regulations do not require any local agency to carry out the governmental function of providing services to the public.

EFFECT ON SMALL BUSINESSES

It has been determined that the proposed regulations may affect small businesses.

ASSESSMENT

The adoption of the proposed regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

CONSIDERATION OF ALTERNATIVES

The Division must determine that no reasonable alternative considered by the Division, or that has been identified and brought to the attention of the Division, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

TITLE 8. DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

NOTICE OF PROPOSED RULEMAKING AND PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Division of Occupational Safety and Health is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a public hearing to be held at 2211 Park Towne Circle, Suite 1, Sacramento, California at 10:00 a.m., on October 21, 2002. These facilities are accessible to persons with mobility impairments.

WRITTEN COMMENT PERIOD

Written comments must be received by the Division at 2211 Park Towne Circle, Suite 1, Sacramento, CA 95825 not later **than 5:00 p.m. on October 21, 2002**, or must be received by the Division at the hearing. Written comments should be mailed to the above address, faxed to 916/483-0572 or e-mailed to DOSHINFO@hq.dir.ca.gov. The official record of the rulemaking proceeding will be closed at 5:00 p.m. on October 21, 2002. Written comments received after that date and time will not be considered unless an extension of time in which to receive specific written comments is announced at the public hearing.

The Division may thereafter adopt the proposed regulations substantially as described below or may modify them if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Authority: Sections 60.5, 6308, and 9021.9, Labor Code.

Reference: Section 6501(c) and 9021.9, Labor Code; and Section 1529, Title 8, California Code of Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Article 2.7 Approval of Courses and Course Providers

The Division intends to adopt the proposed rulemaking action pursuant to California Labor Code (LC) section 9021.9 which mandates that the Division approve training entities to conduct task-specific training programs that include the requirements prescribed by the Cal/OSHA Standards Board for employees and supervisors involved in operations pertaining to asbestos cement (AC) pipe. This rulemaking will apply specifically to employees engaged in AC pipe work.

This rulemaking action will accomplish three things:

- Establish a course provider approval process, satisfying the State's Labor Code requirement,
- Require course providers to meet the minimum training standards as outlined in Section 1529, Title 8, California Code of Regulations (8CCR) and 29 CFR, Part 1926, as a condition of approval, and
- Make available the approved training required for contractors who want to engage in AC pipe work and who are not registered abatement contractors.

There are currently no State regulations that specifically address the issues of approving AC pipe training and course providers.

The proposed rulemaking is consistent with requirements the LC section 9021.9. Although 29 CFR, Part 1926 does specify training requirements, there are no federal mandates that require approval as an AC pipe training provider or that require AC pipe workers to be trained by an approved training provider; this regulation is at least as stringent at 29 CFR, Part 1926.

MORE INFORMATION

The full text of the Proposed Regulations, and all information upon which the Proposed Regulations are based, including an initial statement of the reasons for the Proposed Regulations, are available upon request. Inquiries concerning the Proposed Regulations, including questions regarding the substance of the Proposed Regulations, may be directed to:

Rick Axe or Steve Smith
Department of Industrial Relations
Division of Occupational Safety and Health
2211 Park Towne Circle Suite 1
Sacramento, CA 95825
(916) 574-2993

The Division's rulemaking file on the Proposed Regulations is open for public inspection Monday through Friday, from 8:00 a.m. to 5:00 p.m., at 2211 Park Towne Circle Suite 1, Sacramento, California. Interested parties may obtain copies of the initial statement of reasons, the actual text of the Proposed Regulations, this notice, and the final statement of reasons, (once it has been prepared pursuant to Government Code section 11346.9(a),) from the Division representatives named above, or from the Division's web site (www.dir.ca.gov/DOSH).

COST OR SAVINGS OF THE PROPOSED REGULATIONS

Costs or Savings to State Agencies: The Division anticipates no significant cost impact. To offset program cost, the proposed standard incorporates a fee-for-service schedule.

Impact on Housing Costs: The Proposed Regulations will not significantly affect housing costs.

Impact on Businesses: The Division has made an initial determination that the Proposed Regulations will not result in a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

The proposal does not establish training which is not already required under 8 CCR 1529; only Division approval of training course providers is newly introduced. Some incremental costs are associated with the proposed fee-for-service schedule. Also, it may be true that access to business, which now requires employer registration, would more than offset any new costs. Training providers, including employers who elect to do their own training, would be required to pay a one-time fee for course approval. These fees are established to cover the Division's cost for approval of training.

Cost Impacts on Representative Private Persons or Businesses: The Division is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the Proposed Regulations.

Costs or Savings in Federal Funding to the State: The Proposed Regulations will not result in costs or savings in federal funding to the State.

Costs or Savings to Local Agencies or School Districts: No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate".

Other Nondiscretionary Costs or Savings Imposed on Local Agencies: The Proposed Regulations do not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Proposed Regulations do not impose a mandate on local agencies or school districts. The Division has determined that the Proposed Regulations do not impose a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the Proposed Regulations do not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal. 3d 46).

The Proposed Regulations do not require any local agency to carry out the governmental function of providing services to the public.

EFFECT ON SMALL BUSINESSES

No adverse impact on small businesses is anticipated from the implementation of the proposed regulations because this regulation introduces no new training requirements only that certain training be approved. The small cost associated with approval may be offset by relief from registration requirements.

ASSESSMENT

The adoption of the Proposed Regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

CONSIDERATION OF ALTERNATIVES

The Division must determine that no reasonable alternative considered by the Division, or that has been identified or brought to the attention of the Division, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

TITLE 10. DEPARTMENT OF CORPORATIONS

NOTICE IS HEREBY GIVEN

The California Corporations Commissioner ("Commissioner") proposes to amend Section 310.114.1 of the California Code of Regulations (10 C.C.R. Section 310.114.1) under the FRANCHISE INVESTMENT LAW relating to the offering circular, and adopt Section 310.156.3 of the California Code of Regulations (10 C.C.R. Section 310.156.3), which exempts advertisements posted on the Internet from filing under Corporations Code Section 31156, if certain conditions are met.

PUBLIC COMMENTS

No public hearing is scheduled. Any interested person or his or her duly authorized representative may request, in writing, a public hearing pursuant to Section 11346.8(a) of the Government Code. The request for hearing must be received by the Department of Corporations' ("Department") contact person designated below no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department to Kathy Womack, Office of Law and Legislation, Department of Corporations, 1515 K Street, Suite 200, Sacramento, CA 95814-4052, no later than 5:00 p.m., October 21, 2002. Written comments may also be sent to Kathy Womack (1) via electronic mail at regulations@corp.ca.gov or (2) via fax at (916) 322-3205.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Department regulates the offer and sale of franchises under the Franchise Investment Law ("FIL"). Under the FIL, it is unlawful to offer or sell any franchise in this state unless the offer has been registered with the Commissioner or is exempt from registration.

Section 310.114.1: An application for registration of a franchise must be accompanied by a proposed offering circular that complies with the Uniform Franchise Offering Circular ("UFOC") Guidelines, as amended by the North American Securities Administration Association, Inc. on April 25, 1993, and as modified by Section 310.114.1. (See Cal. Corp. Code § 31114.) Due to the recent decisions of the 9th Circuit Court of Appeals in *Laxmi v. Golf U.S.A* (1999) 193 F.3d 1095 and *Bradley v. Harris Research, Inc.* (2001) 275 F.3d 884, 890, the Commissioner proposes to amend subsections (c)(5)(A) and (c)(5)(B)(iv) of

Section 310.114.1 to change the required disclosures relating to a franchise agreement that requires binding arbitration. The Commissioner also proposes to amend Section 310.114.1 to add subsection (c)(6) to require that a franchisor include a disclosure statement if an earnings claim is made under Item 19 of the Uniform Franchise Offering Circular that does not include costs of sales or operating expenses.

Section 310.156.3: Under the FIL, it is also unlawful to publish in this state any advertisement offering a franchise subject to the registration requirements of the FIL unless it has been filed with the Commissioner or is exempt from filing. (*See* Cal. Corp. code § 31156.) The FIL provides the Commissioner with express authority to exempt by rule advertisements from the filing requirement. Under this express authority, the Commissioner proposes to add Section 310.156.3 to the FIL to exempt from the filing requirements advertisements offering a franchise that are posted on the Internet when certain conditions are met.

AUTHORITY

Sections 31156, 31114 and 31502, Corporations Code.

REFERENCE

Sections 31110, 31111, 31114, 31119, 31120, 31125 and 31156, Corporations Code.

AVAILABILITY OF MODIFIED TEXT

The text of any modified regulation, unless the modification is only non-substantial or solely grammatical in nature, will be made available to the public at least 15 days prior to the date the Department adopts the regulations. A request for a copy of any modified regulations should be addressed to the contact person designated below. The Commissioner will accept written comments on the modified regulations for 15 days after the date on which they are made available. The Commissioner may thereafter adopt, amend or repeal the foregoing proposal substantially as set forth above without further notice.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS/INTERNET ACCESS

The express terms of the proposed action may be obtained upon request from any office of the Department. Request Document PRO 09/02-B. An initial statement of reasons for the proposed action containing all the information upon which the proposal is based is available from the contact person designated below. Request Document PRO 09/02-C. These documents are also available at the Department's website www.corp.ca.gov. As required by the Administrative Procedure Act, the Office of Law and

Legislation maintains the rulemaking file. The rulemaking file is available for public inspection at the Department of Corporations, Office of Law and Legislation, 1515 K Street, Suite 200, Sacramento, California.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the website listed above.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISCAL IMPACT

- Cost or Savings to any State Agency: None.
- Cost or Savings to Local Agency or School District, or a Mandate Which Requires Reimbursement Pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None.
- Direct or Indirect Costs or Savings in Federal Funding to the State: None.
- Other nondiscretionary cost or savings imposed on local agencies: None.

DETERMINATIONS

The Commissioner has made an initial determination that the proposed regulatory action:

- Does not impose a mandate on local agencies or school districts, or a mandate which requires reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- Does not have an effect on housing costs.
- Does not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- Does not significantly affect (1) the creation or elimination of jobs within the State of California; (2) the creation of new businesses or the elimination of existing businesses within the State of California; and (3) the expansion of businesses currently doing business within the State of California.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON SMALL BUSINESS

The proposed regulatory action does not affect small business because the proposed action makes clarifying changes to current law and regulations, and exempts a current requirement.

CONTACT PERSON

Nonsubstantive inquiries concerning this action, such as requests for copies of the text of the proposed regulations may be directed to Kathy Womack at (916) 322-3553. The backup contact person is Karen Fong at (916) 322-3553. Inquiries regarding the substance of the proposed regulation may be directed to Kimberly D. Willy, Corporations Counsel, Department of Corporations, 1515 K Street, Suite 200, Sacramento, California 95814. (916) 324-9687.

TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

NOTICE OF PROPOSED REGULATORY ACTION: AMEND COMMISSION REGULATION 1005 AND THE DOCUMENT, *TRAINING AND TESTING SPECIFICATIONS FOR PEACE OFFICER BASIC COURSES*

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST), pursuant to the authority vested by Sections 13503 of the Penal Code (powers of the Commission on POST) and Section 13506 (authority for Commission on POST to adopt regulations), and in order to interpret, implement and make specific Sections 13510 (authority for the Commission on POST to adopt and amend rules establishing minimum standards for California local law enforcement officers) and 13510.5 of the Penal Code (authority for the Commission on POST to adopt and amend standards for certain other designated California peace officers), proposes to adopt, amend or repeal regulations in Chapter 2 of Title 11 of the California Code of Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

As part of an ongoing review of Regular Basic Course content, POST staff and curriculum consultants (academy instructors and other subject matter experts) thoroughly review learning domain content to determine if revisions are necessary. This process

occurs in regularly scheduled workshops during which curriculum and supporting materials for specific domains are updated to reflect emerging training needs, compliance with legislatively mandated subject matter, changes in the law, or to improve student learning and evaluation.

Proposed changes to the training and testing specifications for Learning Domains #13 ABC Law are the result of these regularly scheduled reviews. This proposal does not include amendments to the minimum hourly requirement for these domains. The proposed changes intend to accomplish the following goals:

- Add, modify and delete current learning objectives to provide greater clarity, conform with current terminology and strategies, and changes in the law; and,
- Establish or update revision dates.

All proposed changes have been reviewed and endorsed by the Consortium of Academy Directors. Upon approval through the Notice of Proposed Regulatory Action Process of the Administrative Procedures Act, the changes would go into effect January 1, 2003.

PUBLIC COMMENT

The Commission hereby requests written comments on the proposed actions. All written comments must be received at POST no later than 5:00 p.m. on October 21, 2002. Written comments should be directed to Kenneth J. O'Brien, Executive Director, Commission on Peace Officer Standards and Training, 1601 Alhambra Boulevard, Sacramento, CA 95816-7083, fax number (916) 227-2801, or email at ken.obrien@post.ca.gov

A public hearing is not scheduled. Pursuant to Government Code Section 11346.8 any interested person, or his or her duly authorized representative, may request in writing, no later than 15 days prior to the close of the public comment period, that a public hearing be held.

ADOPTION OF PROPOSED REGULATIONS

Following the close of the public comment period, the Commission may adopt the proposal substantially as set forth without further notice or may modify the proposal if such modifications remain sufficiently related to the text as described in the Informative Digest. If the Commission makes changes to the language before the date of adoption, the text of any modified language, clearly indicated, will be made available at least 15 days before adoption to all persons whose comments were received by POST during the public comment period, and all persons who request notification from POST of the availability of such changes. A request for the modified text should

be addressed to the agency official designated in this notice. The Commission will accept written comments on the modified text for 15 days after the date of which the revised text is made available.

TEXT OF PROPOSAL

Copies of the Initial Statement of Reasons and exact language of the proposed action may be obtained by submitting a request in writing to the contact person at the address below. This address also is the location of all information considered as the basis for these proposals. The information will be maintained for inspection during the Commissions' normal business hours (8 a.m. to 5 p.m., Monday through Friday).

Copies of the Final Statement of Reasons, once it has been prepared pursuant to subdivision (a) of Section 11346.9, may be obtained from the address at the end of this notice.

ESTIMATE OF ECONOMIC IMPACT

Fiscal impact on Public Agencies including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Costs to any Local Agency or School District for which Government Code Section 17561 Requires Reimbursement: None

Significant Statewide Adverse Economic Impact Directly Affecting California Businesses, including Small Business: The Commission on Peace Officer Standards and Training has made an initial determination that the proposed regulation will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability to compete with businesses in other states, and has found that the proposed amendment of Regulation 1005 will have no effect on California businesses, including small businesses, because the Commission on Peace Officer Standards and Training sets selection and training standards for law enforcement and does not impact California businesses, including small businesses.

Cost Impacts on Representative Private Persons or Businesses: The Commission on Peace Officer Standards and Training is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with this proposed action.

Effect on Housing Costs: The Commission on Peace Officer Standards and Training has made an initial determination that the proposed regulation would have no effect on housing costs.

ASSESSMENT

The adoption of the proposed amendments to this regulation will neither create nor eliminate jobs in the state of California, nor result in the elimination of existing businesses or create or expand businesses in the state of California.

CONSIDERATION OF ALTERNATIVES

In order to take this action, the Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Inquiries concerning written material pertaining to the proposed action should be directed Leah Cherry, Associate Governmental Program Analyst, 1601 Alhambra Boulevard, Sacramento, CA 95816-7083, or by telephone at (916) 227-3891, fax number (916) 227-3895 or e-mail at leah.cherry@post.ca.gov. The back-up contact person as well as inquiries concerning the substance of the proposed action/text for the proposed curriculum revisions to the Regular Basic Course should be directed to Bob Stresak, Senior Consultant, (916) 227-4259, fax number (916) 227-6932 or e-mail at bob.stresak@post.ca.gov.

INTERNET ACCESS

The Commission has posted on its website (www.post.ca.gov) the information regarding this proposed regulatory action. Select "Regulation Notices" from the topics listed on the website's home page.

TITLE 13. AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE PUBLIC TRANSIT BUS FLEET RULE AND EMISSION STANDARDS FOR NEW URBAN BUSES

The California Air Resources Board (Board or ARB) will conduct a public hearing at the time and place noted below to consider amendments to the public transit bus fleet regulations. The amendments modify the current transit bus fleet rule and provide additional emission test procedures for specific urban buses, but do not affect new engine emission standards. This notice summarizes the significant amendments. The staff report presents all proposed amendments in greater detail.

DATE: October 24, 2002
 TIME: 9:30 a.m.
 PLACE: Air Resources Board
 Auditorium
 9530 Telstar Avenue
 El Monte, CA 91731

This item will be considered at a two-day meeting of the Board, which will commence at 9:30 a.m., on October 24, 2002 and may continue at 8:30 a.m., October 25, 2002. This item may not be considered until October 25, 2002. Please consult the agenda for the meeting which will be available at least 10 days before October 24, 2002, to determine when this item will be considered.

This facility is accessible to persons with disabilities. If accommodation is needed, please contact ARB's Clerk of the Board at (916) 322-5594 by October 10, 2002, to ensure accommodation. Persons with hearing or speech impairments can contact us by using our Telephone Device for the Deaf (TDD) at (916) 324-9531, or (800) 700-8326 for TDD calls from outside the Sacramento area.

INFORMATIVE DIGEST OF PROPOSED ACTION

Sections Affected: Proposed amendments to sections 1956.1, 1956.2, 1956.4, 1956.8, and 2112, title 13, California Code of Regulations (CCR), and the incorporated document titled "California Interim Certification Procedures for 2004 and Subsequent Model Hybrid-Electric Vehicles, in the Urban Bus and Heavy-duty Vehicle Classes."

Background: In February 2000 the Board approved the Public Transit Fleet Rule and Emission Standards For New Urban Buses. The multifaceted transit bus regulations set fleet requirements, applicable to transit agencies, and set more stringent mid- and long-term oxides of nitrogen (NOx) and particulate matter (PM) emission standards for new urban bus engines, applicable to engine manufacturers. Transit agencies were required to choose either a diesel or alternative fuel compliance path. The fuel path selected determines the compliance schedule and reporting requirements. The fleet rule was designed to provide transit agencies with flexibility in meeting the NOx standard while achieving near-term PM reductions and promoting advancement of PM control technology. The adopted PM fleet rule requirements are listed in Table 1. The PM standard requires transit agencies to retrofit progressively newer model-year (MY) buses with devices capable of reducing PM emissions by 85 percent. In addition to the fleet rule requirements, the Board adopted engine NOx emission standards designed to achieve long-term emission benefits from new bus engines.

TABLE 1

Transit Bus PM Fleet Retrofit Requirements—By Fuel Path Percentage of Model-Year Buses Required to Demonstrate a Minimum of 85% Reduction of PM	
Diesel Path	Alternative Fuel Path
Tier 1 (pre 1991-MY) 100% by January 1, 2003	Tier 1 (pre 1991-MY) 100% by January 1, 2003
Tier 2 (1991–1995-MYs) 50% by 1/1/03 100% by 1/1/04	Tier 2 (1991–1995-MYs) 20% by 1/1/03 75% by 1/1/04 100% by 1/1/05
Tier 3 (1996–pre-Oct. 2002-MYs) 20% by 1/1/05 75% by 1/1/06 100% by 1/1/07	Tier 3 (1996–pre-Oct. 2002-MYs) 20% by 1/1/07 75% by 1/1/08 100% by 1/1/09

Recognizing the progressive nature of the fleet rule and emission standards, the Board directed staff to report back on the progress of implementing the regulatory requirements. Staff worked closely with transit agencies, urban transit bus manufacturers, and engine and drive system manufacturers to gather information. Staff reported back to the Board in September 2001 and March 2002. Based on the evaluation of available information, staff determined that most transit agencies would be able to meet the fleet rule requirements pertaining to NOx emissions. However, PM retrofit technology capable of reducing PM emissions by 85 percent or more is not available for 1993 model year and older engines.

Proposed Actions: These proposed regulatory amendments are designed to provide transit agencies with greater flexibility in complying with the required emission standards. The proposed amendments include: modifying the current, model year based, PM retrofit requirements to establish a total PM reduction requirement; allowing transit agencies in the South Coast Air Quality Management District (SCAQMD) that have elected to follow the "diesel" path a one time option of changing to the "alternative fuel" path; modifying the alternative fuel provision for transit agencies on the diesel fuel path; authorizing the Executive Officer to grant small transit agencies a delay in implementation of the regulation; modifying and including additional definitions for clarification of the urban transit bus fleet rule; repealing the current certification procedure for PM retrofit devices adopted November 2000; and providing interim procedures for certification of hybrid-electric urban transit buses.

A. Amendments to the Fleet Rule

1. PM Emission Reduction Proposal

As directed by the Board in March 2002, staff reviewed the technology available to achieve the current PM retrofit requirements. Staff concluded that PM retrofit technology capable of reducing in-use PM

emissions by 85 percent or more is not currently available for 1993 model year and older engines. In order to enable transit agencies to comply with feasible PM emission reduction requirements, yet still aggressively reduce in-use PM emissions, staff proposes to amend the current rule which requires transit agencies to retrofit a percent of its overall fleet for each model year. The proposed amendments would require transit agencies to reduce PM by a specified percentage based on total diesel PM emissions. The proposed schedule to achieve the required percent of PM emission reductions is based on the implementation dates of the original regulation's implementation schedule and on the fuel path selected.

The proposed amendments will require a transit agency to reduce its overall diesel fleet PM emissions by a specified percentage. Total certified diesel fleet PM emissions as of January 1, 2002 will serve as the baseline value for calculating the required reduced emission level. The proposed implementation schedule and the percent reduction of PM from the baseline PM emission levels are provided in Table 2, below. For example, in 2004, transit agencies that selected the diesel fuel path would be allowed to emit up to 60 percent of their January 1, 2002 total diesel PM emissions, a 40 percent diesel PM emission reduction; and transit agencies that selected the alternative fuel path would be allowed to emit up to 80 percent of their January 1, 2002 total diesel PM emissions, which is a 20 percent diesel PM emission reduction.

The total diesel PM emission reduction proposal applies only to diesel-fueled, dual-fueled, bi-fueled, and diesel HEBs; in other words, any engine that uses diesel fuel and has diesel PM emissions. A transit agency with alternative-fueled buses and diesel-fueled buses would be required to reduce PM emissions from its diesel buses only. In this case, a PM emissions baseline would be based on the transit agency's diesel bus population. This proposal is designed to ensure that every diesel fleet will have its in-use PM emissions significantly reduced by 2007 or 2009, depending on fuel path.

Transit agencies may use a variety of methods to reduce their diesel PM emissions to comply with the proposed diesel PM emission reduction requirement, including bus retirement, engine repower, purchase of new low-emission buses, and installation of a verified diesel emission control strategy. Transit agencies may retire older buses or repower engines certified to higher emissions levels and replace them with newer diesel, dual fuel, bi-fuel, or diesel hybrid-electric buses certified to 0.01 g/bhp-hr, or with alternative fuel buses. Replacement of a diesel bus with an alternative-fuel bus also reduces the total diesel PM emissions.

TABLE 2

Proposed Compliance Schedule for Total Diesel PM Emissions		
Compliance Year (as of January 1st)	Diesel Fuel Path Percent Reduction	Alternative Fuel Path Percent Reduction
2004	40	20
2005	60	40
2007	85	60
2009	85	85

2. Fuel Path Change

In order to determine which, if any, transit agencies would consider making a fuel path change, staff notified transit agencies and asked for comments. The only transit agencies that responded to the request for comment were in the SCAQMD. Therefore, the proposed amendments include a one-time opportunity for a transit agency in the SCAQMD to change its fuel path selection from diesel to alternative fuel. In establishing the fleet rule, the implementation dates for transit agencies on each fuel path were determined in order to ensure that emission reductions were essentially equivalent over the life of the rule. Transit agencies on the diesel path have earlier implementation dates for reducing emissions when compared to those set for the alternative fuel path.

Because transit agencies in the SCAQMD have already been purchasing alternative-fuel buses in accordance with District rules, allowing these agencies to change to the alternative fuel path would have little or no impact on the benefits expected from the regulation. Staff therefore proposes to limit the scope of the fuel path change only to transit agencies in the SCAQMD, and to require that any transit agency that wishes to change its fuel path declare its intention by January 31, 2004. This date would allow transit agencies sufficient time to bring the question before their management or Board, and would allow them to combine required reports on compliance with the annual report due each January 31.

3. Alternative Fuel Bus Purchase Provision for Diesel Path Transit Agencies

The required certified emission level of an engine that a transit agency wishes to purchase during 2004 through 2006 is dependent on the agency's selected fuel path. The current regulations prohibit transit agencies on the diesel path from purchasing diesel-fueled, dual-fueled, bi-fueled, or alternative-fueled engines with certified NOx emissions greater than 0.5 g/bhp-hr. This requirement would also apply to diesel-fueled, dual-fueled, bi-fueled engines purchased by transit agencies on the alternative fuel path. This requirement would not apply, however, to alternative-

fueled engines purchased by transit agencies on the alternative fuel path. Staff does not expect any full-sized alternative-fueled or diesel-fueled urban bus engines certified to 0.5 g/bhp-hr NOx emissions to be available through 2006.

To encourage and facilitate transit agencies on the diesel path to purchase alternative-fueled engines, staff proposes to remove the 0.5 g/bhp-hr NOx emission standard for certain transit agencies. That is, staff proposes to remove the restriction that prohibits transit agencies on the diesel path from purchasing model year 2004 to 2006 alternative-fueled urban bus engines with NOx emissions in excess of 0.5 g/bhp-hr.

4. Transit Agency Request for Delay

Staff has been asked by a number of transit agencies to allow them to deviate from the retrofit and fuel implementation schedules because of financial hardship. Staff believes this request is meritorious. Staff proposes adding a general provision that would allow a transit agency, with fewer than 20 buses, to request an implementation delay based on a convincing demonstration of financial hardship. Staff's proposal provides a mechanism to allow the Executive Officer to hear and decide on the merits of exceptional requests for an implementation delay.

5. Definitions

To clarify the intent and facilitate implementation of the transit bus regulation, staff proposes to modify the definitions of "active fleet" and "alternative fuel", and to add definitions for "emergency contingency vehicle" and "spare bus".

The most significant change pertains to the definition for alternative fuel. Previously the definition precluded all use of diesel fuel. The proposed revision will allow the use of small amount of diesel as a pilot ignition source.

6. Repeal Certification Procedures for PM Retrofit Devices

The proposed amendments require that any device installed on urban buses to meet the diesel PM reduction requirement be verified under the procedures adopted therein. Currently, there are two procedures available to manufacturers of diesel emission control strategies to certify technology. To ensure that all manufacturers follow the same procedures, have the same warranty and in-use compliance requirements, it is necessary to repeal "California Certification Procedures for PM Retrofit Devices for On-Road Heavy-Duty Diesel Vehicles," adopted November 22, 2000 and incorporated by reference in CCR title 13, section 1956.2 (f)(7). These procedures would be replaced with those adopted by the Board in May 2002: "Diesel Emission Control Strategy Verification Procedure, Warranty and In-Use Compliance

Requirements for On-Road, Off-Road, and Stationary Diesel-Fueled Vehicles and Equipment." This modification would have no impact on transit agencies or businesses because no manufacturer has followed the certification procedures that were adopted November 22, 2000.

7. Hybrid-Electric Bus Certification Procedure

Heavy-duty hybrid-electric vehicles, including transit buses, are currently certified using ARB- approved engine certification test procedures. Current engine certification procedures do not enable the quantification of emission reductions resulting from the use of a smaller engine operating more efficiently in a hybrid-electric drive system. A specific hybrid-electric certification procedure would provide manufacturers and transit agencies with representative emission values that would allow quantification of emissions from different engine/drive system combinations and would facilitate the comparison of hybrid-electric bus emissions with other technologies.

The proposed interim certification procedure for determining compliance with the urban transit bus emission standards, applicable to 2004 and subsequent model year hybrid-electric buses, is based on a modified version of the Society of Automotive Engineers (SAE) Recommended Practices, SAE J2711 (April 2002). SAE J2711 was developed to test the emissions of heavy-duty hybrid-electric vehicles using chassis dynamometer tests. The HEB's certification value is determined through calculations using chassis dynamometer tests and engine certification values for both the HEB and a conventional drivetrain urban transit bus. The ARB proposed procedures include a provision for chassis dynamometer testing of conventional drivetrain urban transit buses to determine baseline emissions.

To provide flexibility and facilitate sales of HEBs, up to two parties (i.e. the engine/turbine/fuel cell manufacturer and the electric drive component manufacturer) may apply for an Executive Order identifying the certified emission standard, for model years 2004 through 2006. Starting with model year 2007, only one party may apply for an Executive Order identifying the emission standard achieved by the HEB. HEBs could still be certified using current engine-based certification procedures on a case-by-case basis, if approved by ARB's Executive Officer.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSON

The Board staff has prepared a Staff Report, which includes the Initial Statement of Reasons for Rulemaking and a summary of the environmental impacts of the proposed action, titled "Proposed Modifications to the Public Transit Bus Fleet Rule and Interim Certification Procedures for Hybrid-Electric Urban

Transit Buses.” Copies of the Staff Report and the full text of the proposed regulatory language may be accessed on the ARB’s web site listed below, or may be obtained from the Board’s Public Information Office, 1001 “I” Street, Sacramento, California 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing. Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact person in this notice, or may be accessed on the ARB’s web site listed below. In addition, the Board Staff has compiled a record that includes all information upon which the proposal is based. The material is available for inspection upon request to the contact person identified below.

To obtain these documents in an alternate format, please contact the Air Resources Board Americans with Disability Act (ADA) Coordinator at (916) 323-4916, TDD (916) 324-9531, or (800) 700-8326 for TDD calls from outside the Sacramento area.

Further inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Mr. Juan Osborn, at (626) 575-6998 or josborn@arb.ca.gov, or Ms. Lucina Negrete, at (916) 327-2938 or lnegrete@arb.ca.gov.

Further, the agency representative and designated back-up contact persons to whom procedural inquiries concerning the proposed administrative action may be directed are Artavia Edwards, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-6070, or Alexa Malik, Assistant, Board Administration & Regulatory Coordination Unit, (916) 322-4001.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR when completed, will be available on the ARB Internet site for this rulemaking at

www.arb.ca.gov/regact/bus02/bus02.htm or
www.arb.ca.gov/msprog/bus/bus.htm.

COST TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board’s Executive Officer concerning the costs or savings necessarily incurred in reasonable compliance with the proposed regulations are presented below.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action will not create costs or savings to any state agency or in federal funding to the state, costs or mandate to any local agency or school district whether or not reimbursable by the State pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or other non-discretionary savings to State or local agencies.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on representative private persons or businesses. The Executive Officer has determined that there will be no, or an insignificant, potential cost impact, as defined in Government Code section 11346.5(a)(9), on private persons or businesses directly affected resulting from the proposed action, including the ability of California businesses to compete with businesses in other states, or on representative private persons. The proposed amendments will provide transit agencies with greater flexibility to comply with the required standards. Staff believes that the proposed amendments would cause no adverse impacts in California employment, business status, or measured competitiveness or increase costs above those estimated for the Public Transit Bus Fleet Rule and Emission Standards for Urban Buses regulations adopted February 2000.

The proposed amendments would provide a mechanism that allows some transit agencies to change from the diesel path to the alternative-fuel path; establish a fleet average PM retrofit requirement; and establish a new interim certification procedure for hybrid-electric urban transit buses. Since the proposed amendments provide transit agencies with greater flexibility to comply with the required emission standards they are not expected to impose costs above those already estimated. Most impacts to business, both positive and negative, will likely occur in other states. Most manufacturers of engines and control technology are located outside of California.

Certification testing of hybrid-electric buses could increase the cost of purchasing a hybrid-electric bus. Manufacturer costs for testing a family of hybrid electric buses, according to proposed interim procedure, would range from \$70,000 to \$120,000 per certification. However, testing would provide manufacturers with a method for demonstrating the full emission reductions achievable from using a hybrid-electric drive system. Testing costs may be transferred to the purchase price of a hybrid-electric bus and transferred to agencies selecting this control option. Since it is not certain how many hybrid-electric buses will be purchased, the proportional increased cost of a hybrid-electric bus cannot be determined at this time.

A transit agency does not typically pay the full cost of purchasing a new bus. Federal funds are available to cover 80 percent of the total cost of a new urban diesel bus and 83 percent of new low emission alternative fuel bus. Since transit agencies can make the choice among emission control options, based on their individual transportation planning and operational needs, the increased cost of purchasing a hybrid-electric bus is not considered a significant cost impact.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the

proposed regulatory action will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California.

The Executive Officer has also determined, pursuant to Government Code section 11346.5(a)(3)(B), that the proposed regulatory action will not affect small businesses because this is a change to a regulation that is voluntary with respect to small businesses and there are no mandated requirements and no associated impacts.

ENVIRONMENTAL IMPACTS

The proposed amendments provide greater flexibility to transit agencies to meet current regulations and do not set new emission standards. It is anticipated that after 2004 the proposed amendments would achieve close to the same emission reductions, as anticipated from the February 2000 Public Transit Bus Fleet Rule. Two factors account for lower emission reductions prior to 2004: the lack of technology to retrofit older engines, and the need to provide transit agencies additional time to obtain funding to replace older engines. HEB's have the potential to provide emission reductions beyond those required in the regulations. However, there is no quantifiable method for determining how many HEBs with NOx emissions below those required will be purchased and therefore, it is not possible to quantify at this time any additional emission benefit.

The proposed amendments regulate all transit agencies throughout the state to ensure that emission benefits are achieved for all Californians. In addition, urban transit buses transport people every day to destinations in various communities throughout California; hence, environmental impacts resulting from the proposed amendments would affect all communities where urban transit buses travel.

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing or by e-mail before the hearing. To be considered by the Board, written submissions not physically submitted at the hearing must be received **no later than 12:00 noon, October 23, 2002**, and addressed to the following:

Postal mail is to be sent to:

Clerk of the Board
Air Resources Board
1001 "I" Street, 23rd Floor
Sacramento, California 95814

Electronic mail is to be sent to: bus02@listserv.arb.ca.gov and received at the ARB **no later than 12:00 noon, October 23, 2002**.

Facsimile transmissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at the ARB **no later than 12:00 noon October 23, 2002**.

The Board requests but does not require that 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The ARB encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND HEARING PROCEDURES

This regulatory action is proposed under the authority provided in Health and Safety Code sections 39600, 39601, 43013, 43018, 43101, 43102, 43104, 43105, 43200, 43806, and Vehicle Code section 28114. This action is proposed to implement, interpret, and make specific California Health and Safety Code sections, 39002, 39003, 43000, 43009.5, 43012, 43018, 43100, 43101.5, 43102, 43104, 43105, 43106, 43200, 43204, 43205.5, and 43806. Before taking final action on the proposed regulatory action, the Board must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Title 2, Division 3, Part 1, Chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory amendments as originally proposed, or with nonsubstantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such event the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted. The public may request a copy of the modified regulatory text from the Board's Public Information Office, 1001 "I" Street, Sacramento, California, 95814, (916) 322-2990.

TITLE 14. CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

CHAPTER 3. MINIMUM STANDARDS FOR SOLID WASTE HANDLING AND DISPOSAL

ARTICLE 5.4. WASTE TIRE MONOFILL REGULATORY REQUIREMENTS

PROPOSED REGULATORY ACTION

The California Integrated Waste Management Board (CIWMB) proposes to amend Title 14, California Code of Regulations (CCR), Division 7, Chapter 3, by adding Article 5.4, sections 17346 through 17349. The proposed changes govern the proper and safe disposal of waste tires in the ground and to protect public health and safety and the environment.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulations to the CIWMB. The written comment period for this rulemaking ends at 5:00 p.m. on October 21, 2002. The CIWMB will also accept oral and written comments during the public hearing described below. Please submit your written comments to:

Keith Kennedy
California Integrated Waste Management Board
Permitting and Enforcement Division
P.O. Box 4025 MS-15
Sacramento, CA 95812-4025
Phone: (916) 341-6341
FAX: (916) 319-7248
e-mail: kkennedy@ciwmb.ca.gov

PUBLIC HEARING

A public hearing to receive comments on the proposed rulemaking will be scheduled for November 6, 2002. The hearing will be held in the Central Valley Auditorium (Second Floor) at the Joe Serna, Jr. Cal/EPA Building, 1001 I Street, Sacramento, California. The hearing will begin at 9:00 a.m. and conclude after the public gives all testimony. The CIWMB requests that persons, who make oral comments at the hearing, submit written copy of their testimony at the hearing. The Central Valley Auditorium is wheelchair accessible.

INFORMATIVE DIGEST

The Integrated Waste Management Act (Act) [AB 939 (Sher), Stats. 1989, c. 1095], Public Resources Code (PRC) Section 40000 et seq., provides for the protection of public health and safety and the environment through waste prevention, waste diversion, and safe waste processing and disposal. PRC

Section 40502 requires the CIWMB to adopt rules and regulations to implement this Act. PRC Section 43020 requires the CIWMB to adopt and revise regulations, which set forth minimum standards for solid waste handling, transfer, composting, transformation, and disposal. Proposed regulations in Title 14 CCR, Division 7, Chapter 3, Article 5.4, will set forth permitting and minimum operating requirements for waste tire monofills and waste tire monofill facilities.

Currently, there are regulations that govern the above ground storage and the transportation of waste tires. However, there are no regulations that govern the disposal of waste tires in the ground. In the past, the CIWMB has required operators of waste tire monofills to obtain a full solid waste facilities permit, which contains operating conditions for solid waste facilities. Some of the operating conditions, however, are not applicable to waste tire monofills. To date, there is one permitted waste tire monofill in California.

The proposed regulations will require operators of waste tire monofill facilities to obtain full solid waste facilities permits which provide operating standards for the safe disposal of waste tires. The operating standards were developed to significantly reduce the possibility of tire fires at waste tire monofill facilities.

In addition to the operating criteria outlined in Title 27 CCR, Division 2, Subdivision 1, Chapter 3, Subchapter 4 for landfills and disposal sites, waste tire monofills will have to meet additional requirements for daily cover, intermediate cover, and cell dimensions. Temperature sensors will be required to monitor cell temperatures. All of the tires will have to be altered in a specific manner prior to disposal. Extensive sampling will be required. Waste tire monofill operators will be required to keep additional records for inspection by the Local Enforcement Agency and the CIWMB. Site personnel will also have to be trained in fire safety, prevention, and suppression.

POLICY STATEMENT OVERVIEW

The CIWMB has determined that waste tires can pose a threat to public health, safety, and the environment; therefore, sites handling waste tires for the purpose of disposal should be regulated. The proposed regulations provide permitting requirements and minimum operating standards for facilities that operate a waste tire monofill under Title 14 CCR, Division 7, Chapter 3, Article 5.4.

PLAIN ENGLISH REQUIREMENTS

CIWMB staff prepared the proposed final regulations pursuant to the standard of clarity provided in Government Code Section 11349 and the plain English requirements of Government Code Section 11342.580 and 11346.2(a)(1). The proposed final

regulations are considered non-technical and are written to be easily understood by those parties that will use them.

AUTHORITY AND REFERENCES

PRC Sections 40502, 43020, and 43021 provide authority for these regulations. The purpose of the proposed regulations is to implement, interpret, and make specific PRC Sections 40053, 43020, and 43021.

FEDERAL LAW OR REGULATIONS MANDATE

Federal law or regulations do not contain comparable requirements.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

CIWMB staff has determined that the proposed regulations do not impose: (1) a mandate on local school districts; (2) significant costs or savings to any state agency; (3) costs to any local agency or school district that must be reimbursed in accordance with Government Code Sections 17500 through 17630; (4) other non-discretionary costs or savings on local agencies; or (5) costs or savings in federal funding to the state.

EFFECT ON HOUSING COSTS

CIWMB staff made an initial determination that the proposed regulations will not have a significant effect on housing costs.

EFFECT ON BUSINESSES

CIWMB staff has determined that the regulations will have some impact on the waste tire monofill facility located in Azusa, California, owned by Waste Management, Inc. This facility is currently accepting waste tires for disposal in a waste tire monofill. The promulgation of these regulations will impose new operating, sampling, analysis and other requirements at the facility.

CIWMB staff also made an initial determination that the proposed regulations will not have a significant, statewide adverse economic impact directly affecting California businesses, with the exception of the Azusa tire monofill, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES

CIWMB staff determined that the regulations will not have any significant economic impact on small businesses. If the full cost imposed by these regulations were entirely passed on to the consumer, the regulation could result in maximum additional cost of approximately \$0.02 per tire to consumers or small businesses disposing tires as determined by the California Environmental Protection Agency, Agency-Wide Economic Analysis Unit's Assessment of Eco-

nomic Impacts of Proposed CIWMB Regulation Implementing Waste Tire Disposal Sites. This amount would represent an inconsequential amount.

IMPACTS ON JOBS/BUSINESSES

CIWMB staff determined that the costs and/or savings associated with these regulations are not significant enough to result in the creation or elimination of jobs, occupations, or businesses or the expansion of existing California businesses.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

CIWMB staff has determined that the adoption of the proposed regulations will not have a cost impact on private persons. Although new information may be received during the rulemaking process, CIWMB is not aware at this time of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

CONSIDERATION OF ALTERNATIVES

The CIWMB must determine that no reasonable alternative considered by the CIWMB or that has otherwise been identified and brought to the attention of the CIWMB would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action. The CIWMB invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action or the substance of the proposed regulations may be directed to:

Keith Kennedy
California Integrated Waste Management Board
Permitting and Enforcement Division
P.O. Box 4025 MS-15
Sacramento, CA 95812-4025
Phone: (916) 341-6341
FAX: (916) 319-7248
e-mail: kkennedy@ciwmb.ca.gov

Back-up contact person to whom inquiries concerning the proposed administrative action may be directed:

Georgianne Turner
California Integrated Waste Management Board
Permitting and Enforcement Division
P.O. Box 4025 MS-15
Sacramento, CA 95812-4025
Phone: (916) 341-6336
FAX: (916) 319-7165
e-mail: gturner@ciwmb.ca.gov

**AVAILABILITY OF STATEMENT OF REASONS
AND TEXT OF PROPOSED REGULATIONS**

The CIWMB will have the entire rulemaking file, and all information upon which the proposed regulations are based, available for inspection and copying throughout the rulemaking process at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons and the document Technical Considerations: Scrap Tire Monofills. Copies may be obtained by contacting Keith Kennedy at the address, e-mail, or telephone number listed above. For more timely access to the proposed text of the regulations, and in the interest of waste prevention, interested parties are encouraged to access the CIWMB's website at

<http://www.ciwmb.ca.gov/Rulemaking/Monofill/>.

Additionally, the Final Statement of Reasons will be available at the above listed Internet address or you may call the contact persons named above.

**AVAILABILITY OF CHANGED
OR MODIFIED TEXT**

The CIWMB may adopt the proposed regulations substantially as described in this notice. If the CIWMB makes modifications which are sufficiently related to the proposed text, it will make the modified text—with changes clearly indicated—available to the public for at least 15 days before the CIWMB adopts the regulations as revised. Requests for the modified text should be made to the contact person. The CIWMB will mail any modified text to all persons who testify at a public hearing; all persons who submit written comments at a public hearing; all persons whose comments are received during the comment period; and all persons who request notification of the availability of such changes. The CIWMB will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**TITLE 14. FISH AND
GAME COMMISSION**

**NOTICE OF PROPOSED CHANGES
IN REGULATIONS**

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 215, 220, 240 and 7071 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 205, 206, 215, 220, 240 and 8585.5 of said Code, proposes to amend sections 27.60, 27.65, 27.82, 28.27, 28.28, 28.54, 28.55 and 28.58, Title 14, California Code of Regulations, relating to options for take of

nearshore/shelf/slope rockfish, lingcod, cabezon, California scorpionfish and ocean whitefish for consistency with Pacific Fishery Management Council rules.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

Under existing law, west coast groundfish, including rockfish and lingcod, are managed by the Pacific Fishery Management Council (Council) pursuant to the Pacific Coast Groundfish Fishery Management Plan (Groundfish Plan) to comply with policies and standards of the Federal Sustainable Fisheries Act (Public Law 94-265). The California Fish and Game Commission (Commission) adopts sport fishing regulations for groundfish that conform to those of the Council. Current federal law requires that rebuilding plans be adopted for those groundfish stocks that are determined by the Council to be overfished. A number of shelf and slope rockfish (those generally found deeper than 20 fathoms) and lingcod are currently assessed as overfished, with rebuilding expected to take several decades in the case of the overfished rockfish stocks. Overfished rockfish stocks and associated species for which regulations now exist (and for which changes are proposed in the 2003 calendar year) include bocaccio, canary, and yelloweye rockfish, California scorpionfish, and ocean whitefish. Concerns also exist for nearshore rockfish and associated species such as cabezon due to expected shifts in fishing effort from offshore waters closed to fishing.

Existing sportfishing regulations affecting the take of rockfish, lingcod, California scorpionfish and ocean white include designated rockfish and lingcod management areas, seasonal closure periods that prohibit the take of rockfish, lingcod, California scorpionfish, and ocean whitefish in rockfish and lingcod management areas, minimum size and bag limits, and regulation of the number of hooks and lines that are authorized when rockfish and lingcod are aboard a vessel. California scorpionfish and ocean whitefish are prohibited in waters 20 fathoms or greater in depth during rockfish and lingcod closures to avoid the incidental take of overfished shelf rockfish and lingcod. Also, area and season closures exist in nearshore waters that coincide with all or portions of closure periods in shelf waters within rockfish and lingcod management areas. Regulations currently authorize the Commission to close sport fishing for rockfish and lingcod if the Department determines that harvest guidelines adopted as regulation by the National Marine Fisheries Service for lingcod, bocaccio, canary rockfish, and yelloweye rockfish are exceeded, or are projected to be exceeded. Also, a recreational minimum size limit exists for cabezon (a nearshore species).

Generally, sport fishing regulation changes being proposed reflect several options that will be considered by the Council and Commission for the 2003 fishing season. These regulatory measures will affect west coast recreational groundfish fisheries from the California-Oregon border to the U.S.-Mexico border and involve both State and federal waters off California. The Commission is expected to take action to conform to Council adopted groundfish sportfish regulation changes at the Commission's October 25, 2002 meeting. The proposed changes would prohibit the take of rockfish, lingcod, California scorpionfish, and ocean whitefish in waters [20–27] fathoms [(120–162 feet)] and greater north of 40 degrees, 10 minutes North Latitude (near Cape Mendocino), and waters greater than [10 to 20] fathoms [(60–120 feet)] or greater south of 40 degrees, 10 minutes North Latitude, depending on which minimum depth and closure period is finally adopted for the areas north and south of 40 degrees, 10 minutes, North Latitude near Cape Mendocino, Humboldt County.

Proposed changes to recreational fishing regulations for Council and Commission consideration involving waters from 40 degrees, 10 minutes North Latitude, south of Cape Mendocino, Humboldt County, north to the California-Oregon border include:

- a prohibition on the take and possession of rockfish and lingcod in waters [20–27] fathoms or greater (the exact depth to be determined), either all year, or from June–October, inclusive, or a less restrictive period to be determined (proposed change to Section 27.82, Title 14, CCR);
 - a daily bag and possession limit of either 10 rockfish, or 10 rockfish and lingcod in combination with not more than two lingcod in the bag (proposed change to Section 27.60, Title 14, CCR);
 - a reduction in the daily bag and possession limit for canary and yelloweye rockfish from one to zero, and elimination of the authorization of up to two yelloweye rockfish per boat;
 - a seasonal closure on the take of rockfish and lingcod in nearshore waters to range from open all year to closed during specified months, to be determined;
 - a requirement that barbless circle hooks be used when rockfish and lingcod are aboard;
 - an increase in the minimum size limit for cabezon from 15 inches in total length, to 16 inches in total length; and
 - authority to close the recreational fishery for lingcod and rockfish to include nearshore rockfish, or subgroups of nearshore rockfish, and California scorpionfish when the Department determines that a harvest guideline published as regulation by the National Marine Fisheries Service has been exceeded or is projected to be exceeded;
- Proposed changes to recreational fishing regulations for Council and Commission consideration involving waters south of 40 degrees, 10 minutes North Latitude, south of Cape Mendocino, Humboldt County to the U.S.-Mexico border include:
- a total prohibition on the take of rockfish, lingcod, California scorpionfish, and ocean whitefish in waters [10–20], fathoms [(60–120 feet)] deep or greater (the minimum depth beyond which fishing is prohibited will be determined at the Council's September meeting);
 - a reduction in the current sport limit of 10 rockfish per day in the aggregate of authorized species (reduced from current 10 to between 9 and 5 per day) during those time periods, and in those areas, where rockfish would continue to be authorized for take in waters less than [10–20] fathoms deep (the exact depth to be determined); Rockfish in the bag limit in nearshore waters open to fishing would be nearshore species of rockfish except [zero–two] could be shelf species other than bocaccio, cowcod, canary rockfish, and yelloweye rockfish (proposed change to sections 27.60 and 28.55, Title 14, CCR);
 - a total prohibition on the take of bocaccio, canary, and yelloweye rockfishes (bag limits to be zero);
 - a change in the bag limit for California scorpionfish (range of 5–10 being considered);
 - new sportfishing minimum size limits for black-and-yellow, gopher, and kelp rockfishes (10 inches total length), and China and grass rockfishes (12 inches total length);
 - an increase in the cabezon minimum size limit from 15 to 16 inches total length;
 - a requirement to use barbless circle hooks when rockfish and lingcod are aboard;
 - authority to close the recreational fishery for lingcod and rockfish to include nearshore rockfish, or subgroups of nearshore rockfish, and/or California scorpionfish, when the Department determines that a harvest guideline published as regulation by the National Marine Fisheries Service has been exceeded or is projected to be exceeded;
- These measures are proposed to help meet rebuilding goals for overfished stocks of rockfish and lingcod in offshore shelf waters; to help keep harvests of nearshore fish stocks within harvest guidelines established for nearshore rockfish, California scorpionfish, and cabezon; and to address concerns for shifts in fishing effort to nearshore fish stocks expected to result from closures to fishing offshore

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Elihu Harris State Building, First Floor Auditorium, 1515 Clay Street, Oakland, CA, on Friday, August 30, 2002 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Board of Supervisors Chambers, 981 H Street, Suite 100, Crescent City on Friday, October 25, 2002 at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments may be submitted on or before October 21, 2002, at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than October 25, 2002, at the hearing in Crescent City. E-mail comments must include the true name and mailing address of the commentor.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John M. Duffy, Assistant Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John M. Duffy or Tracy L. Reed at the preceding phone number. Patricia Wolf, Department of Fish and Game, (562) 342-7108 has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the above address. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.dfg.ca.gov>

AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time

periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from agency program staff.

IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action is expected to have a coast wide adverse economic impact affecting business, although this is not expected to affect the ability of California businesses to compete with businesses in other states. The regulation changes are expected to further restrict recreational fishing opportunities in California, particularly the activities of commercial passenger fishing vessels (CPFVs) that rely in large part on taking passenger fishing for rockfish and lingcod to offshore waters 20 fathoms or greater in depth. In regard to effects of rockfish and lingcod closures on the ability of local businesses to compete with businesses in other states, it is unlikely that fishermen unable to fish due to local closures would opt to go to Oregon to fish for rockfish and lingcod given that closures off northern California will also apply in waters off Oregon.

Generally, owners and operators of CPFVs that rely on fishing for rockfish and lingcod off central and northern California have fewer options than those CPFVs operating in waters off southern California. CPFVs that may no longer target rockfish and lingcod in shelf waters must either redirect their fishing operations to nearshore waters for rockfish and lingcod, target other species, or engage in other vessel activities (such as seasonal whale watching) or be faced with finding other occupations. Owners and operators of CPFVs off southern California often target rockfish and lingcod during winter months when resident and migratory game fishes are not as active or are unavailable. Owners and operators of many CPFVs off central and northern California

often rely to a great extent on fishing for rockfish and lingcod; other available target species, including salmon and albacore, tend to be seasonally available.

The practical impact of these regulations is expected to be decreased recreational fishing activity for several species of rockfishes and lingcod along California's coast due to prohibition of the take of these species in waters deeper than 20 fathoms. The extent to which businesses associated with recreational fishing for these species will be affected depends on how consumer demand for their services responds under the proposed fishing restrictions. It is unlikely that most recreational fishermen will abandon all ocean fishing activities due to these regulations. Rather, as indicated above, some unknown portion of this fishing sector will substitute other less restricted ocean species in order to continue their ocean fishing activities, but some decrease in overall fishing activity will likely result.

Information from the National Marine Fisheries Service (NMFS) estimates anglers aboard CPFVs take roughly 43% of all ocean rockfishes caught by all recreational fishermen in Northern California and 67% in Southern California. Year 2001 fishing log data from the Department of Fish and Game shows 5.9% of all Northern California CPFV trips and 0.8% of all Southern California CPFV trips took place in waters deeper than 20 fathoms and specifically targeted rockfish and lingcod. Of those total trips in 2001 for which logs indicate rockfish and lingcod as the target species, the percent of fishing trips to waters greater than 20 fathoms is 34 percent and 75 percent for northern and southern California, respectively. Average passenger fares for fishing trips on CPFV boats are \$74 and \$57 for Northern California and for Southern California, respectively (based on 2002 surveys). In a 1998–1999 NMFS report of marine recreational fishing trip-related expenditures, an estimated \$17.0 million is directed annually to CPFV services in Northern California and \$81.4 million is directed annually to CPFV services in Southern California.

In the worst case scenario (all former rockfish and lingcod trips to waters greater than 20 fathoms are considered lost revenue to the CPFV fishing sector), we can project annual revenue losses to CPFV owners and related businesses of \$998,000 in Northern California (or 5.9% of \$17 million), and \$666,000 in Southern California (or 0.8% of \$81.4 million). Note, however, that it is unlikely

that revenue losses this high will occur, since recreational fishermen may substitute other ocean species for rockfish and lingcod.

Since these conformance regulations are subject to review and change each year, we project costs impacts for one-year only. This one-year time horizon for cost impacts, equal to the useful life of the proposed regulations, thus does not require present value discounting.

The Commission has made an initial determination that the amendment of this regulation may have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states. The Commission has considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit alternative proposals. Submissions may include the following considerations:

- (i) the establishment of differing compliance or reporting requirements or timetables which take into account the resources available to businesses;
 - (ii) consolidation or simplification of compliance and reporting requirements for businesses;
 - (iii) the use of performance standards rather than prescriptive standards; or
 - (iv) exemption or partial exemption from the regulatory requirements for business.
- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business:
- The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State agencies or Costs/Savings in Federal funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

TITLE 14. FISH AND GAME COMMISSION

NOTICE OF PROPOSED CHANGES IN REGULATIONS

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Section 9003 of the Fish and Game Code and to implement, interpret or make specific sections 9003 and 9008 of said Code, proposes to amend Section 180.2, Title 14, California Code of Regulations, relating to trap destruction devices.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Currently, all traps deployed by commercial fishermen licensed in the state of California must contain a trap destruction device. The devices approved for use by the Department are specified in Section 180.2, Title 14 CCR.

The California Department of Fish and Game is proposing:

- the clarification that Section 180.2, Title 14 CCR applies to all traps placed in ocean waters off the coast of California;
- the addition of language to stipulate that it is illegal to cause or otherwise defeat the intent of a trap destruct device;
- the addition of clarifying language that specifies that the escape opening of 5 inches in diameter is unobstructed;
- the addition of clarifying language for the destruct device in wire mesh Dungeness crab traps to allow for the protrusion of a single wire mesh into the escape opening to serve as an anchor for the destruct device attachment material;
- the elimination of a soft steel rod not greater than one quarter (.25) inch in diameter from the approved list of devices, and the addition of 14 gauge (.080, + or - .003 inch or smaller) metal hog rings not made of stainless steel or other non-corrosive material as an approved destruction device;
- the addition of clarifying language that specifies a single strand of untreated cotton twine size No. 120

or less in Dungeness crab traps, and untreated cotton twine size No. 21-thread of less in other traps;

- the addition of clarifying language that specifies that 24 gauge bare metal crimps shall be .028 + or - .003 inch or smaller; and
- the addition of clarifying language specifying that a single loop of untreated cotton twine size No. 120 or less may be used as destruct device material for attaching rubber door closing straps to metal or plastic clips.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Elihu Harris State Building, First Floor Auditorium, 1515 Clay Street, Oakland, CA, on Friday, August 30, 2002 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Board of Supervisors Chambers, 981 H Street, Suite 100, Crescent City, on Friday, October 21, 2002 at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments may be submitted on or before October 25, 2002, at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than October 25, 2002, at the hearing in Crescent City. E-mail comments must include the true name and mailing address of the commentor.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John M. Duffy, Assistant Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John M. Duffy or Tracy L. Reed at the preceding phone number. Eric Larson, Department of Fish and Game, (650) 631-6788, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the above address. Notice of the proposed action shall be posted on the Fish and Game Commission website at http://www.dfg.ca.gov/fg_comm/

AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested

may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from agency program staff.

IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed revision clarifies the original intent of the regulation regarding the requirement for all traps used for the commercial take of crab, lobster and spot prawn to contain a destruct device. The required destruct device disables a trap should it become lost at sea. Under normal circumstances a trap lost at sea is not retrievable. The economic impact to the industry and/or the individual fisherman is associated with the loss of the trap and not in compliance with the regulation. The proposed language specifies acceptable destruct device designs and materials, but does not change existing regulatory requirement for a destruct device. Compliance with the proposed regulation will alter existing operational practices for a small portion of the commercial trap fishermen and, therefore, does not pose a significant statewide adverse economic impact for the industry or associated businesses.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business: The Commission is aware that a representative private person or business could incur approximately \$140.00 annual cost impacts in reasonable compliance with the proposed action.
- (d) Costs or Savings to State agencies or Costs/Savings in Federal funding to the State: None.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

TITLE 15. DEPARTMENT OF CORRECTIONS

NOTICE OF ADOPTION OF EMERGENCY REGULATIONS

NOTICE IS HEREBY GIVEN that the Director of the Department of Corrections (CDC), pursuant to rulemaking authority granted by Penal Code (PC) Section 5058, in order to implement, interpret and make specific PC Section 5054, proposed to amend sections 3000, 3375, 3375.1, 3375.2, 3375.3, 3375.4 and 3377 and to adopt section 3375.5 in the California Code of Regulations (CRC), Title 15, Division 3 relating to the Inmate Classification Score System.

PUBLIC HEARING

Date and Time: October 28, 2002, 9:00 AM to 5:00 PM

Place: Department of Water Resources Auditorium
1416 Ninth Street
Sacramento, CA 95814

Purpose: To receive comments about this action.

PUBLIC COMMENT PERIOD

The public comment period will close October 28, 2002 at 5:00 p.m. Any person may submit public comments in writing (by mail, by fax, or e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the Department of Corrections, Regulation and Policy

Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916)322-3842; or by e-mail at pmchenry@executive.corr.ca.gov before the close of the comment period.

CONTACT PERSON

Please direct any inquiries regarding this action to:

**Rick Grenz, Chief,
Regulation and Policy Management Branch
Department of Corrections
P.O. Box 942883,
Sacramento, CA 94283-0001
Telephone (916) 322-9702**

In the event the contact person is unavailable, inquires should be directed to the following back-up person:

**C. Mraz
Regulation Management Unit
Telephone (916) 322-9702**

Questions regarding the substance of the proposed regulatory action should be directed to:

**Gloria Rea
Institutions Division
Telephone (916) 358-2164**

LOCAL MANDATES

This action imposes no mandates on local agencies or school districts, or a mandate, which requires reimbursement pursuant to Government Code Section 17561.

FISCAL IMPACT STATEMENT

- Cost or savings to any state agency: *None*
- Other non-discretionary cost or savings imposed on local agencies: *None*
- Cost or savings in federal funding to the state: *None*

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business, because they are not affected by the internal management of state prisons.

ASSESSMENTS OF EFFECTS ON JOB AND/OR BUSINESS CREATION, ELIMINATION OR EXPANSION

The Department has determined that the proposed regulation will have no effect on the creation of new or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory action.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared and will make available the text and the Initial Statement of Reasons of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, Initial Statement of Reasons, and the Notice of Proposed Action will also be made available on the Department's website <http://www.cdc.state.ca.us>.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the final statement of reasons may be obtained from the Department's contact person.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications, which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regula-

tion text should be directed to the contact person indicated in this notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

PC Section 5054 vests with the Director the supervision, management and control of the prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of inmates.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

In 1996, the California State Legislature appropriated funds to validate the CDC Inmate Classification Score System's effectiveness to assess the housing needs of offenders based upon their propensities for violence and other associated personal factors that could affect the security of institutional operations. To effectively conduct comprehensive research, CDC contracted with the Statistical Consulting Center, University of California, Los Angeles (UCLA), to review and analyze 600,000 placements incarcerated in CDC institutions between 1989 and 1996. Additionally, supplemental data on behavior information regarding 6,000 inmates incarcerated in 1994 were manually retrieved for review by UCLA.

The research confirmed that the CDC Inmate Classification Score System works well, works well over time, and sorts both male and female inmates appropriately based on the propensity of the inmate for becoming involved in misbehavior while incarcerated. Because the Inmate Classification Score System works well, the inmates already in CDC custody are not likely to require transfers or reshuffling of placement upon implementation of the proposed regulatory changes.

Secondly, research determined that Administrative Determinants serve to fine-tune the classification score. Approximately 80 percent of the inmate population is housed in accordance with the inmate's classification score. However, an inmate may be endorsed to a higher or lower level of security than otherwise indicated by the inmate's classification score. The CDC refers to such an exception as an override and requires that use of an Administrative Determinant to justify the out-of-level placement. Because data based solely on inmate classification scores do not factor the reasons for exceptional placement, the use of an override is frequently misinterpreted as over classification.

To ensure the appropriate and effective placement of an inmate presenting an override risk demonstrated by his or her criminal offense or circumstances of his

or her commitment, CDC is establishing Mandatory Minimum Score Factors representing specific, permanent Administrative Determinants. Use of the Mandatory Minimum score Factors shall serve to establish placement score thresholds for inmates with specific, overriding criminal circumstances. Use of Mandatory Minimum Scores will also increase the reliability of the data based solely on inmate placement scores.

In 1998, CDC and UCLA performed computer simulated testing of several configurations of classification forms using a variety of variables. The purpose of the computer simulation was to determine the effects the new forms would have on inmate classification and distribution. The CDC also embarked on a 24-month clinical trial monitoring the placement, disciplinary behavior, and return to custody of new felon commitments received within a six-month period. The Violent Felon Identification Program's Pilot Project monitored approximately 21,734 new felon commitments to compile data and compare findings on experimental and control inmate populations. The intent of the pilot project is to determine the usefulness and clarity of the changes to the classification score sheets, the impact on prison distribution, and the implication of inmate placement on inmate misconduct. Based on this study, CDC has sufficient information to substantiate the need for the regulatory changes as proposed to the Inmate Classification Score System.

The objectives of the new and revised regulations are as follows:

1. To establish the use of objective new variables predictive of inmate proclivity towards future misconduct.
2. To establish criteria for assessing points based on objective, clear, and valid information. In addition to establish definitions, criteria, and specific weight for affixing points based on clear objective findings.
3. To implement Mandatory Minimum Score Factors to identify permanent and specific case factors precluding inmate placement in lower level housing. Minimum scores are incorporated as thresholds in the Inmate Classification Score System. Application of the Mandatory Minimum Scores reduces the perception that an inmate is over classified; ensures uniform application of placement criteria to inmates with specific case factors; and reduces confusion.
4. To establish the date of reception to CDC as the starting date for classification review. This eliminates floating review periods, establishes uniform review periods for annual classification review, and acknowledges good behavior.

5. To eliminate penalty for undocumented prior incarceration.
6. To grant credit to parole violators for favorable behavior earned, but not assessed prior to parole.
7. To establish a new form for readmission for parole violators. Use of the new form eliminates errors, clarifies reception center processing for parole violators and highlights status.
8. To establish simple, clear, efficient correction/adjustment forms. This will also reduce workload.
9. To compile data and create a database to be used for optimal prison management and correctional research. The information from the revised and new classification score forms shall be entered into the departmental databases. Information is not compiled nor automated currently. The automation shall reduce, if not eliminate work intensive manual file searches. Revised and new forms are designed to automate access to additional data including, but not limited to the following:
 - Range of age at first arrest
 - Range of age at reception
 - County of last legal residence
 - Reading comprehension score
 - Minimum custody eligibility, by code
 - Reentry eligibility or exclusion
 - Potential eligibility for veteran's benefits and services
 - Prior incarceration in CDC, CYA, Federal, or other State Prison
 - Eligibility for placement in a restitution Center
 - Designation for Developmentally Disability Program placement, by code
 - Designation for Disability Placement Program placement, by code(s), up to five codes may be entered
 - Exclusion by code of level IV-180 degree housing
 - Street gang or disruptive group membership by type and verification code
 - Diagnosis at Reception Center of mental illness and identification of the level of care
 - Identification by factor of the eligibility and application of a Mandatory Minimum Score

TITLE 16. BOARD OF BEHAVIORAL SCIENCES

DEPARTMENT OF CONSUMER AFFAIRS

NOTICE IS HEREBY GIVEN that the Board of Behavioral Sciences (Board) is proposing to take the action described in the Informative Digest. Any person

interested may present statements or arguments in writing relevant to the action.

Written comments must be received by the Board at its office by mail at 400 R Street, Suite 3150, Sacramento, CA 95814, by e-mail at BBSWebMaster@bbs.ca.gov, or by fax at 916-323-0707, not later than 5:00 p.m. on October 21, 2002.

The Board does not intend to hold a hearing on this matter. If any interested party wishes that a hearing be held, he or she must make the request in writing to the Board. The request must be received in the Board office no later than 15 days prior to the close of the written comment period.

The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposal substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 4980.60 and 4990.14 of the Business and Professions Code, and to implement, interpret or make specific Sections 4980.54, and 4996.22 of said Code, the Board is considering changes to Division 18 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Regulation Section 1887 provides definitions of acceptable continuing education courses, self-study courses, continuing education providers, and license renewal periods. Self-study courses currently include electronic methods, such as participating in courses electronically transmitted from another location and viewing of videotapes, in which a licensee can obtain only twelve hours of the required thirty-six hours of continuing education. Now that advancements in technology have allowed for training and reliable verification of completion offered through distance learning and interactive methods, the Board has determined that the definition of a continuing education course should be broadened to allow licensees to obtain their full 36 hours of continuing education through these mechanisms.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies:
None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination: None

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impacts on Representative Private Persons or Businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulatory action.

Effect on Housing Costs: The Board has made an initial determination that the proposed regulatory action would have no significant effect on housing costs.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulatory action would not affect small businesses as this proposed regulatory action would merely allow a licensee to obtain all thirty six hours of required continuing education credits through interactive methods.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments in writing relevant to the above determinations to the above-mentioned address.

**INITIAL STATEMENT OF REASONS
AND INFORMATION**

The Board has prepared an Initial Statement of Reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board of Behavioral Sciences at 400 R Street, Suite 3150, Sacramento, California 95814.

**AVAILABILITY AND LOCATION OF THE
FINAL STATEMENT OF REASONS
AND RULEMAKING FILE**

All the information upon which the proposed regulation is based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the Final Statement of Reasons once it has been prepared, by making a written request to the contact person named below.

CONTACT PERSON

Inquiries concerning the proposed administrative action may be addressed to Julie McAuliffe at the above address or at (916) 445-4933, extension 1142.

The backup contact person is Sherry Mehl (916) 445-4933. The person designated to respond to questions on the substance of the regulatory proposal is Julie McAuliffe (916) 445-4933, extension 1142.

Website Access: Materials regarding this proposal can be found at www.bbs.ca.gov

**TITLE 16. RESPIRATORY
CARE BOARD**

DEPARTMENT OF CONSUMER AFFAIRS

NOTICE OF PROPOSED CHANGES

NOTICE IS HEREBY GIVEN that the Respiratory Care Board is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Respiratory Care Board of California at 444 North 3rd Street, Suite 270, in Sacramento, California at 10:00 a.m. on October 22, 2002. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Respiratory Care Board at its office not later than 5:00 p.m. on October 21, 2002, or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person

designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by section 3722 of the Business and Professions Code, and to implement, interpret or make specific sections 3735 and 3736 of said Code, the Respiratory Care Board is considering changes to Division 13.6 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 3735 states that no person shall receive a license to practice respiratory care without first successfully passing an examination given under the direction of the board. The examination shall be conducted under the regulations prescribed by the board.

Business and Professions Code section 3736 states that examinations for a license as a respiratory care practitioner may be conducted by the board under a uniform examination system, and for that purpose the board may make any arrangements with organizations furnishing examination material as may in its discretion be desirable.

This proposal would set forth the guidelines for scheduling examinations to ensure exam validity.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Cost/Savings in Federal Funding to the State: NONE

Nondiscretionary Costs/Savings to Local Agencies: NONE

Local Mandate: NONE

Cost to Any Agency or School District for Which Government Code Sections 17500 through 17630 Requires Reimbursement: NONE

Business Impact: The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact of Jobs/new Businesses: The Respiratory Care Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: The Respiratory Care Board is not aware of any cost impacts that a representative private person or

business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing: NONE

EFFECT ON SMALL BUSINESS

The Respiratory Care Board has determined that the proposed regulations will not affect small businesses. The California respiratory care practitioner licensing/certified respiratory therapist examination is the property of the National Board for Respiratory Care (NBRC) and is only administered by the NBRC and by Experior Assessments, neither of which are small businesses.

CONSIDERATION OF ALTERNATIVES

The Respiratory Care Board must determine that no reasonable alternative which is considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in the Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Respiratory Care Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing by accessing the board's website at www.rcb.ca.gov or upon request from the Respiratory Care Board at 444 North 3rd Street, Suite 270, Sacramento, CA 95814.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below.

CONTACT PERSON

Inquiries or comments concerning the proposed administrative action may be addressed to:

Christine Molina, Staff Services Manager
Respiratory Care Board of California
444 North 3rd Street, Suite 270
Sacramento, CA 95814
(916) 323-9983
rcbinfo@dca.ca.gov

The backup contact person is:

Stephanie Nunez, Executive Officer
Respiratory Care Board of California
444 North 3rd Street, Suite 270
Sacramento, CA 95814
(916) 323-9983
rcbinfo@dca.ca.gov

Inquiries concerning the substance of the proposed regulations may be addressed to:

Christine Molina, Staff Services Manager
Respiratory Care Board of California
444 North 3rd Street, Suite 270
Sacramento, CA 95814
(916) 323-9983
rcbinfo@dca.ca.gov

TITLE 22. OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

AMENDMENT TO SECTION 12705. SPECIFIC REGULATORY LEVELS POSING NO SIGNIFICANT RISK

AMENDMENT TO SECTION 12805. SPECIFIC REGULATORY LEVELS: REPRODUCTIVE TOXICANTS

NOTICE IS HEREBY GIVEN that the Office of Environmental Health Hazard Assessment proposes to establish specific regulatory levels posing no significant risk for benzofuran, N-carboxymethyl-N-nitrosoarea, *p*-chloro-*o*-toluidine hydrochloride, 3,3'-dimethoxybenzidine; 3,3'-dimethoxybenzidine dihydrochloride, 3,3'-dimethylbenzidine, 3,3'-dimethylbenzidine dihydrochloride, isobutyl nitrite, 2-methylaziridine (propyleneimine), nalidixic acid, phenyl glycidyl ether, *o*-phenylenediamine, *o*-phenylenediamine dihydrochloride, tetranitromethane, and 2,6-xylylene and amend Title 22, California Code of Regulations, Section 12705(b) and 12705(d), and to establish specific regulatory levels having no observable effect for linuron and amend Title 22, California Code of Regulations, Section 12805.

PUBLIC PROCEEDINGS

A public hearing will be held on **October 21, 2002**, at which time any person may present statements or arguments orally or in writing relevant to the action described in this notice. The public hearing will

commence at 10:00 a.m. in the Coastal Hearing Room, California Environmental Protection Agency Building, 1001 I Street, 2nd Floor, Sacramento, California and will last until all business has been conducted, or until 5:00 p.m.

Any written statements or arguments regardless of the form or method of transmission must be received by OEHHA by 5:00 p.m. on **October 21, 2002**, which is hereby designated as the close of the written comment period.

Written comments regarding this proposed action can be sent by mail or by fax addressed to:

Susan Luong
Office of Environmental Health Hazard Assessment
Proposition 65 Implementation Program
P. O. Box 4010
Sacramento, California 95812-4010
FAX: (916) 323-8803
Telephone: (916) 445-6900

Comments sent by courier should be delivered to:

Susan Luong
Office of Environmental Health Hazard Assessment
1001 I Street, 19th Floor
Sacramento, California 95814

Comments may also be transmitted via email addressed to: (sluong@oehha.ca.gov).

It is requested but not required that written statements or arguments be submitted in triplicate.

CONTACT

Please direct inquiries concerning processing of the action described in this notice to Susan Luong or Cynthia Oshita, in writing at the address given above, or by telephone at (916) 445-6900. Inquiries concerning the substance of the action may be directed to Colleen Heck, Chief Counsel, in writing at the address given above, or by telephone at (916) 324-2831.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Safe Drinking Water and Toxic Enforcement Act of 1986, commonly known as Proposition 65 (hereinafter referred to as "the Act"), prohibits a person in the course of doing business from knowingly and intentionally exposing any individual to a chemical that has been listed as known to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual (Health and Safety Code Section 25249.6). The Act also prohibits such persons from knowingly discharging a listed chemical into water or onto or into land where such chemicals pass or probably will pass into any source of drinking water (Health and Safety Code Section 25249.5).

For chemicals known to the State to cause cancer, an exemption from the above requirements is provided by the Act when a person in the course of doing business is able to demonstrate that an exposure for which he or she is responsible poses no significant risk or that a discharge which otherwise complies with all applicable requirements would not cause any significant amount of the discharged or released chemical to enter any source of drinking water (Health and Safety Code Sections 25249.9 and 25249.10). A determination that a level of exposure poses no significant risk may be made utilizing regulations that have previously been adopted by the Office of Environmental Health Hazard Assessment (22 CCR Sections 12701–12721). Section 12701 describes alternative methods for making such a determination. Section 12705 sets forth the process by which the Office of Environmental Health Hazard Assessment may identify specific regulatory levels for determining “no significant risk” for purposes of Proposition 65.

For chemicals known to the State to cause reproductive toxicity, an exemption from the warning requirement and discharge prohibition discussed above is provided by the Act when a person in the course of doing business can demonstrate that an exposure for which he or she is responsible produces no observable effect, assuming exposure at 1,000 times the level in question, or a discharge which otherwise complies with all applicable requirements would not cause any significant amount of the discharged or released chemical to enter any source of drinking water (Health and Safety Code Sections 25249.9 and 25249.10). One method by which a person in the course of doing business may determine whether an exposure or a discharge is exempt from the Act is by application of the specific regulatory level for the chemical in Section 12805. The levels in Section 12805 represent the maximum dose level at which the chemical has no observable reproductive effect, given an exposure at one thousand (1,000) times the level in question.

This amendment to Section 12705(b) would adopt the following “no significant risk” levels for chemicals listed as known to cause cancer:

Chemical	NSRL, in units micrograms per day	Reference
Benzofuran	1.1	OEHHA (2002a)
N-Carboxymethyl-N-nitrosourea	0.70	OEHHA (2002b)
3,3'-Dimethoxybenzidine	0.15	OEHHA (2002c)
3,3'-Dimethoxybenzidine dihydrochloride	0.19	OEHHA (2002c)

Chemical	NSRL, in units micrograms per day	Reference
3,3'-Dimethylbenzidine	0.044	OEHHA (2002d)
3,3'-Dimethylbenzidine dihydrochloride	0.059	OEHHA (2002d)
2-Methylaziridine (propyleneimine)	0.028	OEHHA (2002e)
Phenyl glycidyl ether	5.0	OEHHA (2002f)
Tetranitromethane	0.059	OEHHA (2002g)
2,6-Xylidine	110	OEHHA (2002h)

The amendment to Section 12705(d) would adopt the following “no significant risk” levels for chemicals listed as known to cause cancer:

Chemical	NSRL, in units micrograms per day	Reference
<i>p</i> -Chloro- <i>o</i> -toluidine hydrochloride	3.3	OEHHA (2002i)
Isobutyl nitrite	7.4	OEHHA (2002j)
Nalidixic acid	28	OEHHA (2002j)
<i>o</i> -Phenylenediamine	26	OEHHA (2002j)
<i>o</i> -Phenylenediamine dihydrochloride	44	OEHHA (2002j)

The amendment to Section 12805 would adopt the following regulatory levels for chemicals known to the state to cause reproductive toxicity:

Chemical	MADL, in units micrograms per day	Reference
Linuron	460	OEHHA (2002k)

The risk assessments which were used by the Office of Environmental Health Hazard Assessment to determine the stated levels are as follows:

Office of Environmental Health Hazard Assessment (OEHHA, 2002a). No Significant Risk Level (NSRL) for the Proposition 65 Carcinogen Benzofuran. OEHHA Reproductive and Cancer Hazard Assessment Section, California Environmental Protection Agency, Oakland, August 2002.

Office of Environmental Health Hazard Assessment (OEHHA, 2002b). No Significant Risk Level (NSRL) for the Proposition 65 Carcinogen N-Carboxymethyl-N-nitrosourea. OEHHA Reproductive and Cancer Hazard Assessment Section, California Environmental Protection Agency, Oakland, August 2002.

Office of Environmental Health Hazard Assessment (OEHHA, 2002c). No Significant Risk Level (NSRL) for the Proposition 65 Carcinogens 3,3'-Dimethoxybenzidine and 3,3'-Dimethoxybenzidine Hydrochloride. OEHHA Reproductive and Cancer Hazard Assessment Section, California Environmental Protection Agency, Oakland, August 2002.

Office of Environmental Health Hazard Assessment (OEHHA, 2002d). No Significant Risk Level (NSRL) for the Proposition 65 Carcinogens 3,3'-Dimethylbenzidine and 3,3'-Dimethylbenzidine Hydrochloride. OEHHA Reproductive and Cancer Hazard Assessment Section, California Environmental Protection Agency, Oakland, August 2002.

Office of Environmental Health Hazard Assessment (OEHHA, 2002e). No Significant Risk Level (NSRL) for the Proposition 65 Carcinogen 2-Methylaziridine (Propyleneimine). OEHHA Reproductive and Cancer Hazard Assessment Section, California Environmental Protection Agency, Oakland, August 2002.

Office of Environmental Health Hazard Assessment (OEHHA, 2002f). No Significant Risk Level (NSRL) for the Proposition 65 Carcinogen Phenyl Glycidyl Ether. OEHHA Reproductive and Cancer Hazard Assessment Section, California Environmental Protection Agency, Oakland, August 2002.

Office of Environmental Health Hazard Assessment (OEHHA, 2002g). No Significant Risk Level (NSRL) for the Proposition 65 Carcinogen Tetranitromethane. OEHHA Reproductive and Cancer Hazard Assessment Section, California Environmental Protection Agency, Oakland, August 2002.

Office of Environmental Health Hazard Assessment (OEHHA, 2002h). No Significant Risk Level (NSRL) for the Proposition 65 Carcinogen 2,6-Xylidine. OEHHA Reproductive and Cancer Hazard Assessment Section, California Environmental Protection Agency, Oakland, August 2002.

Office of Environmental Health Hazard Assessment (OEHHA, 2002i). No Significant Risk Level (NSRL) for the Proposition 65 Carcinogen *p*-Chloro-*o*-Toluidine Hydrochloride. OEHHA Reproductive and Cancer Hazard Assessment Section, California Environmental Protection Agency, Oakland, August 2002.

Office of Environmental Health Hazard Assessment (OEHHA, 2002j). Expedited Cancer Potency Values and No Significant Risk Levels (NSRLs) for Four Proposition 65 Carcinogens: Isobutyl Nitrite, Nalidixic Acid, *o*-Phenylenediamine, *o*-Phenylenediamine Dihydrochloride. OEHHA Reproductive and Cancer Hazard Assessment Section, California Environmental Protection Agency, Oakland, August 2002.

Office of Environmental Health Hazard Assessment (OEHHA, 2002k). Proposition 65 Maximum Allowable Dose Level (MADL) for Reproductive Toxicity for Linuron. OEHHA Reproductive and Cancer Hazard Assessment Section, California Environmental Protection Agency, Sacramento, August 2002.

AUTHORITY

Health and Safety Code Section 25249.12.

REFERENCE

Health and Safety Code Sections 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

OEHHA has determined the proposed regulatory action would not pose a mandate on local agencies or school districts nor does it require reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. The Office of Environmental Health Hazard Assessment has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action.

COSTS OR SAVINGS TO STATE AGENCIES

OEHHA has determined that no savings or increased costs to any State agency will result from the proposed regulatory action.

EFFECT ON FEDERAL FUNDING TO THE STATE

OEHHA has determined that no costs or savings in federal funding to the State will result from the proposed regulatory action.

EFFECT ON HOUSING COSTS

OEHHA has determined that the proposed regulatory action will have no effect on housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE

OEHHA has made an initial determination that the adoption of the regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

IMPACT ON THE CREATION, ELIMINATION, OR EXPANSION OF JOBS/BUSINESSES

OEHHA has determined that the proposed regulatory action will not have any impact on the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

OEHHA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON SMALL BUSINESSES

OEHHA has determined that the proposed regulation will not impose any requirements on small

business. Rather, the proposed regulation will assist small businesses subject to the Act in determining whether or not an exposure for which they are responsible is subject to the warning requirement or discharge prohibition.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), OEHHA must determine that no reasonable alternative considered by OEHHA, or that has otherwise been identified and brought to the attention of OEHHA would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

OEHHA has prepared and has available for public review an Initial Statement of Reasons for the regulation, all the critical information upon which the regulation is based, and the text of the regulation. A copy of the initial statement of reasons, a copy of the text of the regulation and copies of the risk assessments which were used by OEHHA to determine the NSRLs and MADLs are available upon request from OEHHA's Proposition 65 Implementation Program at the address and telephone number indicated above. These documents are also posted on OEHHA's Web site at www.oehha.ca.gov.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available at least 15 days prior to the date on which OEHHA adopts the resulting regulation. Notice of the comment period on changed regulations and the full text will be mailed to individuals who testified or submitted oral or written comments at the public hearing, whose comments were received by OEHHA during the public comment period, and who request notification from OEHHA of availability of such change. Copies of the notice and the changed regulation will also be available at the OEHHA's Web site at www.oehha.ca.gov.

FINAL STATEMENT OF REASONS

A copy of the final statement of reasons may be obtained, when it becomes available, from OEHHA's Proposition 65 Implementation Program at the address and telephone number indicated above. The final statement of reasons will also be available at the OEHHA's Web site at www.oehha.ca.gov.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

NOTICE IS HEREBY GIVEN that the prospective contractors listed below have been required to submit a Nondiscrimination Program (NDP) or a California Employer Identification Report (CEIR) to the Department of Fair Employment and Housing, in accordance with the provisions of Government Code Section 12990. No such program or (CEIR) has been submitted and the prospective contractors are ineligible to enter into the State contracts. The prospective contractors signature on Standard Form 17A, 17B, or 19, therefore, does not constitute a valid self-certification. Until further notice, each of these prospective contracts in order to submit a responsive bid must present evidence that its Nondiscrimination Program has been certified by the Department.

ASIX Communications, Inc.
DBA ASI Telesystems, Inc.
21150 Califa Street
Woodland Hills, CA 91367

Bay Recycling
800 77th Avenue
Oakland, CA 94621

C & C Disposal Service
P. O. Box 234
Rocklin, CA 95677

Choi Engineering Corp.
286 Greenhouse
Marketplace, Suite 329
San Leandro, CA 94579

Fries Landscaping
25421 Clough
Escalon, CA 95320

Marinda Moving, Inc.
8010 Betty Lou Drive
Sacramento, CA 95828

MI-LOR Corporation
P. O. Box 60
Leominster, MA 01453

Peoples Ridesharing
323 Fremont Street
San Francisco, CA 94105

San Diego Physicians &
Surgeons Hospital
446 26th Street
San Diego, CA

Southern CA Chemicals
8851 Dice Road
Santa Fe Springs, CA 90670

Tanemura and Antle Co.
1400 Schilling Place
Salinas, CA 93912

Turtle Building Maintenance Co.
8132 Darien Circle
Sacramento, CA 95828

Univ Research Foundation
8422 La Jolla Shore Dr.
La Jolla, CA 92037

Vandergoot Equipment Co.
P. O. Box 925
Middletown, CA 95461

DEPARTMENT OF FISH AND GAME

CONSISTENCY DETERMINATION Fish and Game Code Section 2080.1 CESA NO. 2080-2002-017-06

Project: Blythe Energy Project, amended
Location: Blythe, Riverside County, California
Applicant: Blythe Energy, LLC

BACKGROUND

On July 19, 2002 the U.S. Fish and Wildlife Service (Service) issued amended Biological Opinion No. FWS-ERIV-1166.4 for the Blythe Energy Project, describing the project actions and setting forth measures to mitigate impacts to the desert tortoise (*Gopherus agassizii*) and its habitat. This species is listed as threatened under the California Endangered Species Act, Fish and Game code sections 2050 et seq (CESA).

On July 29, 2002, the Director of the Department of Fish and Game (Department) received a notice from Dr. Jeffrey Harvey, seeking a determination on behalf of the Blythe Energy, LLC, pursuant to Section 2080.1 of the Fish and Game Code that the Federal Biological Opinion is consistent with CESA.

The project, as originally described, consists of the development of a 520 Megawatt natural gas-fired combined-cycle power plant comprised of two combustion turbines, two steam generators, one steam turbine and supporting facilities and equipment. The project, located near Interstate 10 about 3 miles west of the City of Blythe, will interconnect with the regional electric transmission grid at the Blythe Substation. Including the current request to add 66 acres to the impact area, the project will result in the loss of 152 acres of desert tortoise habitat.

DETERMINATION

After review, the Department has determined that the amended Federal Biological Opinion No. FWS-ERIV-1166.4 is consistent with CESA because the project and measures described in that Opinion meet the conditions set forth in Fish and Game Code Section 2081 (b) and (c) for authorization of incidental take of species protected under CESA. The Biological Opinion's measures to mitigate project impacts to the desert tortoise include, but are not limited to, the following:

- 1) a \$1,200 per acre fee provided to the Desert Tortoise Preserve Committee to fund the purchase and management (including endowment and enhancement fees) of 152 acres of desert tortoise habitat (a compensation ratio of 1:1);
- 2) on-site biological supervision/monitoring conducted by a qualified biologist to minimize impacts to desert tortoise during all project-related activities;
- 3) the fencing of the entire site with tortoise-proof fencing as described in the *Desert Tortoise Protection Plan*; and
- 4) the handling of tortoises only via procedures described in terms and conditions 6 a-g of the Biological Opinion, which are consistent with Department standards.

Pursuant to Section 2080.1 of the Fish and Game Code, with this determination, Blythe Energy, LLC will not need to obtain authorization pursuant to CESA for take of the desert tortoise in carrying out the project, provided the project as constructed remains as it is described in the Biological Opinion. A new Consistency Determination or a CESA incidental take authorization must be obtained from the Department if the project as described in the Biological Opinion, including mitigation or conservation requirements set forth in the Biological Opinion, is changed after issuance of that Opinion by the Service.

FISH AND GAME COMMISSION

NOTICE OF PROPOSED CHANGES IN REGULATIONS

(Continuation of California Notice Register 2002, No. 24-Z, and Meetings of June 20 and August 2, 2002.)

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 240, 7071, 7072, 7075, 7078, 7652, 8587.1, and 8588 of the Fish and Game Code and to implement, interpret or make specific sections 96.5, 97, 97.5, 98, 2362, 7050, 7051, 7055, 7056, 7060, 7070, 7071, 7072, 7075, 7078,

7082, 7083, 7086, 7087, 7088, 8383, 8383.5, 8385, 8587, 8587.1, 8588, 8623, 9001.5, 9001.6, 9001.7, 9027, and 9027.5 of said Code, proposes to add sections 52.00, 52.01, 52.02, 52.03, 52.04, 52.05, and 52.09, and amend sections 150.01, 150.16, and 150.17, Title 14, California Code of Regulations, regarding Nearshore Fishery Management Plan Implementing Regulations, and Commercial Take of Nearshore Fishes, Commercial Nearshore Fishing Gear.

UPDATED INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing laws and regulations governing fisheries for nearshore fish stocks in ocean waters off California include a combination of state and federal laws, rules, and regulations adopted by the Fish and Game Commission (Commission), Pacific Fishery Management Council (Council), California Legislature, and United States Congress. A total of 19 species of fish are presently identified in existing regulation as nearshore fish stocks [Section 1.90, Title 14, California Code of Regulations (CCR)]. These include 16 species of federally managed groundfish [thirteen species of nearshore rockfish (blue, black, black-and-yellow, brown, calico, China, copper, gopher, grass, kelp, quillback, and olive rockfishes, and treefish), cabezon, kelp greenling, and California scorpionfish], and three state managed species (California sheephead, rock greenling, and monkeyface eel).

Under existing law, the Marine Life Management Act of 1998 (MLMA) directs the Commission to adopt a Nearshore Fishery Management Plan (Nearshore FMP or Plan), and to adopt implementing regulations not later than 60 days after adoption of the Nearshore FMP. The Nearshore FMP that these proposed regulations will implement, is prepared as a "project" under the California Environmental Quality Act (CEQA). Regulations are proposed to implement the Nearshore FMP, including options from which the Commission will select measures for management of nearshore fisheries to meet the goals and objectives of the Plan and policies of the MLMA. Also, amendments to current nearshore fishery regulations are proposed, as described below.

Existing laws and regulations involving nearshore fisheries and the Nearshore FMP include the following Fish and Game Code Statutes that:

1. provide authority for the Commission to adopt regulations that implement a fishery management plan or plan amendment and make inoperative any fishery management statute that applies to that fishery [Fish and Game Code subsections 7071(b) and 8587.1(b)],
2. provide authority for the Commission to adopt regulations as it determines necessary, based on the advice and recommendations of the department,

consistent with the process specified in the MLMA [Fish and Game Code subsections 7071(c) and 8587.1(a)],

3. direct the Commission to adopt a fishery management plan for the nearshore fishery on or before January 1, 2002 [Fish and Game Code subsection 7072(d)].
4. provide legislative findings and declarations for nearshore fisheries management (Fish and Game Code Section 8585.5),
5. add definitions of nearshore fish stocks, nearshore fisheries, and nearshore waters (Fish and Game Code Section 8586),
6. create a nearshore fishery permit and fee for commercial nearshore fishery (Fish and Game Code Section 8587),
7. authorize the Commission to regulate commercial nearshore fisheries (Fish and Game Code sections 7071 and 8587.1),
8. authorize the Commission revocation of a nearshore permit for a violation of nearshore statutes (Fish and Game Code Section 8589.5),
9. specify the deposition of funds from the nearshore permit and the source of funding to support preparation of the Nearshore FMP (Fish and Game Code Section 8589); and

Title 14 regulations adopted by the Commission that:

1. define *Nearshore fish stocks*, *nearshore fisheries*, and *nearshore waters* (Adoption of this regulation in December 2000 included making Fish and Game Code Section 8586 inoperative) (Section 1.90, Title 14, CCR),
2. authorize a general sport fishing daily bag and possession limit of 10 rockfish in combination of species that applies to nearshore rockfishes (Section 27.60),
3. describe authorized sport fishing seasons, minimum sizes, daily bag limits, and fishing area restrictions for nearshore rockfish, cabezon, kelp and rock greenlings, California sheephead, and California scorpionfish (Sections 27.60, 27.65, 28.26, 8.28, 28.29, 28.54, and 28.55, Title 14, CCR),
4. describe fishery management areas and cowcod closure areas where restrictions or special authorizations for sport take of nearshore fishes apply (Section 27.82, Title 14, CCR),
5. authorize the transport of sport-caught fish through a closed area (Section 27.67, Title 14, CCR),
6. set a limit of two hooks and one line when rockfish or lingcod are aboard (Section 28.65, Title 14, CCR),

7. place a moratorium on the issuance of new nearshore fishery permits and establish a control date of December 31, 1999 for purposes of establishing a restricted access nearshore fishery (Section 150, Title 14, CCR),
8. specify that a nearshore fishing permit is only required for the commercial take of the 10 species of nearshore fishes originally described in Fish and Game Code Section 8588 (Section 150.01, Title 14, CCR),
9. establish a control date of October 20, 2000 for the purpose of developing and implementing a gear endorsement program (Section 150.03, Title 14, CCR),
10. list the closed commercial seasons and areas for cabezon, kelp greenling, rock greenling, lingcod, sheephead, and specify the commercial minimum size limits for 10 nearshore fish stocks and direct that species with trip limits, size limits, or optimum yield specified shall be sorted prior to weighing and weight reported separately on the fish receipt (Section 150.16, Title 14, CCR), and
11. limit the number of hooks that may be used on a vessel to take nearshore fish stocks for commercial purposes within one mile of the mainland shore (Section 150.17, Title 14, CCR).

Regulation changes being considered by the Commission will add new nearshore fishery management provisions to **Article 3 of Chapter 5.5** of Subdivision 1, Division 1, of Title 14, CCR to implement a Nearshore Fishery Management Plan, describe the Plan's purpose and scope, process and timing of monitoring, assessment, and management of nearshore fisheries under the plan, and provide definitions of terms used in the Plan and implementing regulations. Also, regulations proposed to be added to Chapter 5.5 describe "project" alternatives (combinations of management measures) from which the Commission will select one "project" (one or more management measures) for management of nearshore fish stocks and fisheries. Regulations proposed for consideration and adoption by the Commission also describe options for regional management, describe the basis and criteria for allocation decisions, include three options describing how allocation will be conducted, describe the process of setting Total Allowable Catches (TACs) for nearshore rockfish, add mechanisms for closing the fishery for nearshore rockfish and notifying the public, including fishery participants. Regulations would also be adopted to clarify in regulation provisions of the Fish and Game Code that describe the number of persons needing a nearshore fishery permit when taking and landing nearshore fish from a vessel,

specify that nearshore fishery permits are revocable, and that the fee for a nearshore permit is \$125.00. Regulations also are proposed to specify that any nearshore fish must be measured immediately and returned to the water immediately if shorter than the minimum size limit, specify that adoption of size limits, or changes to such limits be based on the best available scientific information and adopted following public notice and at least one public hearing, and that would require the sorting by species prior to weighing of any nearshore fish as defined in Section 1.90, Title 14, CCR. Finally, three regulatory options are being proposed that would amend commercial nearshore fishery gear regulations to: 1) either specify in one regulation areas where the current limit of 150 hooks and 15 hooks per line is in effect along the California coast, **and include an existing exception south of Point Conception, Santa Barbara County, for the use of more than 150 hooks when targeting halibut, white seabass, shark, skates, and rays,** 2) restrict commercial fishing for nearshore fishes to the use of hand-line or rod-and-reel gear with not more than ~~two~~ **five** hooks per line, and lines attached to the boat or person, or 3) would prohibit the take, possession, sale, landing or purchase of nearshore fish stocks from California waters.

More specifically, proposed regulation changes would:

1. add provisions to **Article 3 of Chapter 5.5, Title 14, CCR**, that describe the purpose and scope of the Nearshore FMP, and describe the location in Title 14, CCR, of regulations that deal either with recreational or commercial fishing for nearshore species (proposed Section 52.00, Title 14, CCR),
2. provide definitions for *Allocation, Cape Mendocino, Council/PFMC, Fishery Control Rule, National Marine Fisheries Service, Nearshore Fishery Management Plan, Nearshore Rockfish, Overfished, Overfishing, Quota, Total Allowable Catch or TAC, and Unfished Biomass* (proposed new Section 52.01, Title 14, CCR),
3. direct that management of nearshore rockfish conform to goals, objectives, criteria, procedures and fishery control rule guidelines, describe the process and timing of nearshore fishery management, monitoring, assessment, and adoption of management measures, **including the ability to apply fishery management measures to regional management areas or portions of regional management areas**, and authorize the Director to appoint advisory panels to provide for public input and assistance in the review of fishery assessments, management proposals, and proposed plan amendments (proposed new Section 52.02, Title 14, CCR),

4. describe three options for achieving nearshore fishery management goals and objectives that each include one or more measures involving fishery control rules, allocation, regional management, marine protected areas, nearshore finfish conservation areas, restricted access, prohibitions on take, possession, landing, sale, and purchase of 19 nearshore species of fish from waters off California, and restrictions on commercial fishing gear that may be adopted by the Commission as an option or modified option (proposed new Section 52.03, Title 14, CCR),
5. describe three regional management options to include 1) two regions reflecting the Pacific Fishery Management Council's current rockfish and lingcod management areas, 2) three management regions in northern central, and southern California, and 3) four management regions with a central region divided into a north-central and south-central region (proposed new Section 52.04, Title 14, CCR), **with options for the boundary between the central and southern regional management areas at either Point Conception or Point Arguello, Santa Barbara County.**
6. provide the basis for allocation of nearshore fish stocks, factors that will be considered during changes in allocation, ~~describe the conditions under which an allocation may be determined a routine management measure~~, and proposes options for determining allocation including the need to comply with Federal allocation until transfer of management authority is complete, allocation based on stock size, allocation based on economic benefit to the state, and allocation applied regionally using historic and regional information (proposed new Section 52.05, Title 14, CCR),
7. describe how the total allowable catch (TAC) of nearshore rockfish is determined, authorize department closure of the fishery when the TAC is reached, or expected to be reached, and describe how public notice of closures will be conducted (proposed new Section 52.09, Title 14, CCR"),
8. clarify in regulation, and make consistent with current Fish and Game Code law, provisions specifying that the Nearshore Fishery permit is needed to take nearshore fishes, one Nearshore Fishery permittee must be aboard a vessel when fishing, the permit is revocable, and the fee for a permit is \$125.00 (proposed change to Section 150.01, Title 14, CCR"),
9. require that all nearshore fish defined under Section 1.90 be sorted by species prior to weighing and the weight be recorded separately on the landing receipt, and adopt as regulation current Fish and

Game Code requirements that nearshore fish with size limits be measured when first brought aboard and released immediately if undersize, and that adoption of regulations setting or modifying minimum or maximum size limits be based on the best available scientific information (proposed changes to Section 150.16, Title 14, CCR"), and

10. provide three options that would either 1) clarify in one regulation the current areas identified in Fish and Game Code sections 9027 and 9027.5 where the restriction on number of hooks and lines that may be used commercially to take nearshore fishes applies off California, **including an existing exception to the 150 hook restriction when targeting halibut, white seabass, sharks, skates, and rays south of Point Conception, Santa Barbara County;** or 2) restrict the commercial take of nearshore fishes to the use of hand-line and rod-and-reel fishing gear, including not more than two lines per person and four lines per boat, not more than **five** hooks per line, and the gear must be attached to the person or vessel, with specified limits on the flexibility and breaking strength of the line and the size of the terminal wight or jig, or 3) prohibit the commercial take, possession, landing, sale, and purchase of nearshore fishes from waters off California.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Board of Supervisors Chambers, 981 "H" Street, Suite 100, Crescent City, California, on Thursday, October 24, 2002 at 10:00 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before October 21, 2002 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than October 24, 2002, at the hearing in Crescent City, CA. E-mail comments must include the true name and mailing address of the commentor.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John M. Duffy, Assistant Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John M. Duffy or Sherrie Koell at the preceding address or phone number. Don Schultze, Marine Region, Department of Fish and Game, phone (916) 227-5670, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons,

including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at http://www.dfg.ca.gov/fg_comm.

AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from agency program staff.

IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, including the Ability of California Businesses to Compete with Businesses in Other States:

Generally, participants in the commercial sectors of the nearshore fishery are small business operators. The nearshore commercial fishery is conducted from small to moderately sized vessels (about 12–45 feet in length) that utilize primarily hook-and-line and trap fishing gear in nearshore waters. From one to two fishermen typically operate from a single vessel. Also, owners and operators of commercial passenger fishing vessels (CPFVs), that carry anglers fishing for a fee, operate from most major ports off California and fish, to varying degrees, for nearshore fishes. Discussions of the “Socioeconomic Benefits of the Fishery” and “Socioeconomic Dimensions of the Fishery” are included in Section 1, Chapter 4 of the Nearshore FMP.

Several measures that may potentially affect the nearshore fisheries are included with regulations being considered for adoption. Measures being considered range from no change in current management to a total prohibition on commercial sale of nearshore fish.

Department Recommended Nearshore Fishery Management Plan “Project”: As background, the Department’s Recommended Nearshore FMP Project involves a combination of management measures including a fishery control rule that

integrates essential fisheries information (EFI) about the demographics of target species, the ecosystem effects of the fishery, and the effects of environmental change on the fishery. It then sets criteria for three different levels of availability of EFI: data-poor, data-moderate, or data-rich circumstances. Finally, it designs management strategies that include more or less precaution, depending on the level of EFI.

The current level of availability of EFI for almost all nearshore fishes is data poor which results in greater precautionary adjustments being utilized to address uncertainty about ecosystem effects on stocks and fisheries. Stage 1 management is slated to include a suite of management measures that can affect fishery participants. These include the use of catch history (such as that being utilized now for California sheephead, cabezon, and greenlings) for setting total allowable catches (TACs) for each species or species group of nearshore fishes, regional management of nearshore fish stocks (**four three** regions under the Department’s preferred recommendation), allocation of the TACs of nearshore fishes between recreational and commercial fisheries, marine protected areas (MPAs) (where no fishing occurs), and restricted access (seeks to align the fishing capacity of the commercial fisheries with available fishery resources consistent with sustainable use policy of the MLMA).

As indicated above, development of MPAs and a restricted access program are works-in-progress. Therefore, in the absence of specifics regarding these measures, estimates of the economic impacts on businesses are speculative. These measures may have immediate and potentially protracted negative economic effects on nearshore fishery businesses due to their expected curtailment of fishing in MPAs and by elimination of some fishery participants that do not meet restricted access criteria. However, in the long-term, healthier (more sustainable) stocks of nearshore fishes and a nearshore fleet that is in better balance with available nearshore resources, should have positive economic effects on those continuously involved in the fishery.

This leaves the effects of setting TACs using catch history, regional management, allocation, and gear restrictions (the latter are alternatives to the “recommended” management approach) as the principal measures being considered that may have an economic impact on small businesses.

Determination of Total Allowable Catch (TAC): TAC for Stage 1 (data-poor) management will utilize catch history under the preferred option.

Determination of the TACs for individual species of nearshore fishes, and for nearshore rockfish as a species complex, are proposed to be the same as last year. Therefore, adoption of annual catches as proposed should result in no immediate new economic effects on the fisheries. The proposed regulations would authorize the Commission to use measures such as restrictions in catch, time, area, or gear to keep harvests within total allowable catches. These actions have the potential for causing adverse economic effect in the fishery in the short term, but should result in long-term positive impacts due to increased sustainability of the nearshore fishery resources resulting in increased total fishery harvests over time.

Regional Management (proposed Section 52.04):

Three regional management options are proposed that include: two management regions that correspond to the current management areas created under the Pacific Fishery Management Council's Pacific Coast Groundfish Fishery Management Plan; three management areas south of the California-Oregon border, a north coast region, a central coast region, and a south coast region; and four management areas south of the California-Oregon border (**the Department's recommended preferred alternative**), a north coast region, a north-central coast region, a south-central coast region, and a south coast region.

Economic impacts on the nearshore fisheries as a whole are not expected to result from adoption of a regional management option because no changes are proposed at this time to the total annual catches of nearshore fish stocks. Allocations of the total annual harvests among regions might change the total take of nearshore fish stocks within a particular region, compared with recent historic catches. However, active markets will tend to distribute nearshore fisheries goods and services statewide, according to consumer demand.

Potential economic impacts from allocation of annual catches for a fishery in different regions might range from no impact, to moderate impacts, depending on the region, the species, or species group for which annual catches are being allocated, and the allocation methodology utilized to apportion total annual harvests between regions. The current nearshore fishery has expanded coastwide in recent years with the fishery generally expanding from south to north in the state. Also, different species of nearshore fish predominate in the catch in different areas of the coast. If catches made during recent years are used to apportion annual harvests within a fishery, as anticipated, the impacts are expected to be

negligible. However, if an extended past series of years of either sport or commercial catch data is used to determine allocations within a fishery for different regions in the state, allocations of annual harvests might differ from the current proportions that exist for landings made along the coast. This might result in a fishery in a region being allocated a larger or smaller catch than has traditionally been taken during the year. Economic impacts are expected to be dealt with and losses minimized prior to allocation of nearshore annual catches by region through more detailed examination of catch records for species, pounds and value of fish caught and landed in each region, and through interactions with fishery participants. Long-term economic benefits are expected as a result of abating the collapse of the nearshore fishery, due to overharvesting under current regulations, and benefits will result from rational allocation approaches that maximize the value of the resource used.

Allocation (proposed Section 52.05):

Options for determining allocation are proposed. Presently Commission allocations between sport and commercial fisheries have been made only for California sheephead, cabezon, and greenlings using historic catch data, while the Council has allocated nearshore rockfish. If allocation ratios for these species change due to a change in the method of determining allocation, either a positive or negative economic impact could result to one of these fisheries depending on whether the fishery is allocated more or less of the annual harvest. No changes were made in 2002 to the authorized annual harvests (OYs) set during December of 2000 for these species, so potential economic impacts of changes in allocation would result from a shifting of authorized take from one fishery to the other. Also, if the Commission chose to reallocate unused annual catch from a fishery that is not expected to fully utilize its allocation, this could have an immediate positive economic impact on the fishery receiving the additional allocation by providing for its continued operation, and would result in full utilization of the entire authorized annual catch.

The current allocation process for sheephead, cabezon, and greenlings utilizes a ratio of historic catches for 1983 through 1989 and 1993 through 1999. The Department's preferred Option 1 would utilize this same approach but apply it regionally to three regions along the coast, and include a careful review of commercial and recreational landings. This option may result in some changes in allocation of cabezon and greenling (allocation

would not be expected to change for sheephead which are taken primarily in one of these regions), if the ratio of catches for the central and northern regions differs from the current statewide allocation, which presently allocates the majority of annual harvest to the recreational fishery. Regional data have not yet been developed to further evaluate the effects of allocation on a regional basis.

Also being considered are an allocation based on stock size, and an allocation based on economic benefits to the state. There is insufficient information presently available to determine whether there would be a significant change in allocation ratios between sport and commercial fisheries under the three options. Estimates of actual stock sizes are not presently available to determine if greater or lesser annual harvests could be authorized under this option (Option 2). Recreational interests would benefit initially under this alternative. Subsequently, as biomass increases, increasing annual harvests, up to a point, would be allocated to the commercial fishery under this option until parity between sport and commercial annual harvests is reached at which point their annual harvest would increase equally. With regard to allocation based on economic benefit to the state (Option 3), statewide and regional economic and fisheries data needed to allocate nearshore fishery TACs on this basis are not presently available. Therefore, allocation projections between major user sectors and estimates of economic impacts cannot be derived at this time.

Limit Commercial Fishing for Nearshore Fishes to Handlines and Rod-and-Reel Gear (proposed amendments to Section 150.17):

This proposal was considered late last year in a separate rulemaking during Commission adoption of interim nearshore fisheries management regulations. As indicated above, the Commission declined to proceed with the proposal at that time and directed that it be considered as a management alternative within the Nearshore FMP.

There are several economic aspects to consider in contemplating a gear restriction that would constrain commercial fishermen in the nearshore to using rod-and-reel/handline gear. In general, this approach will result in substantial increases in operating costs to the commercial fishery, because commercial fishermen are required to use relatively inefficient hand-line or rod-and-reel gear (two lines per person with ~~two~~ five hook limits per line).

Increased costs of harvesting will result in increased prices to end buyers and consumers. As a result, individual consumers will likely decrease their demand for commercial products in response to increased prices (due to price elasticity of consumer demand). Reduced demand and purchases of commercial products, plus shifts to substitutes for commercial products, further exacerbate direct economic losses to fishermen as their market share for commercial products erodes. Empirical evidence and economic theory project that consumers will purchase less of the fishery products when the price is increased. As a result, consumer market share for nearshore seafood products will erode as consumers, faced with price increases, choose to purchase fewer nearshore fishery products or choose to purchase more of some other substitute product. In either case, the commercial fishing industry loses some measure of market share for its nearshore fishery products. Effects on profits and business activities in the commercial sector ultimately radiate into the local economy and fishing community as changes to revenue, income, and employment. The relatively inefficient rod-and-reel gear reduces harvest efficiency for the fishermen (relative to existing commercial gear), causing fishermen to either fish this gear harder in order to maintain their economic standing or reduce their scale of business operations to accommodate the harvest limitations of the gear, or both. Fishing the gear harder could entail an increase in number of trips per day or hours fished per day. Alternatively, since the gear requires direct attachment to a person, the fisherman may try to employ additional crew (subject to physical and safety limitations of the vessel) in order to fish more hooks at a time. In either case, the net economic returns from commercial fishing are curtailed for small, medium, and large-scale fishing operations that harvest the nearshore area.

A hand-line/rod-and-reel gear limitation and the resulting revenue effect to fishermen, would likely put moderate-to-large-scale commercial fishing operations out of business if they are primarily dependent on the nearshore fishery. This is because the return on investment, or capital, under this gear constraint would probably not cover their fixed costs for vessel and equipment. Furthermore, the resale and salvage value of their existing gear (and vessel) is greatly diminished, hampering their ability to liquidate assets and invest in some other occupation or fishing activity.

Another result of increased harvest costs occurs in the consumer markets for nearshore fishery products, where prices for fishery end products would increase. This is the result of increased costs of production at the harvest and intermediate product levels being carried into the consumer market (where fishery end products and services are bought and sold).

Losses in market demand and market share result in decreases in revenue and revenue potential. Under declining market conditions there is some critical level of market share below which the product is no longer viable. When this happens the product leaves the consumer domain of normal goods, and either disappears or is relegated to an inferior good or specialty item. Complementary goods or bundled items that would usually be purchased along with the fishery product are also affected as their market demand declines too. Lastly, the ripple effect of declining market share and revenue losses for commercial fishermen comes to rest in the local economies and fishing communities dependent on the nearshore. Such downstream effects can manifest as changes in entire local economies, including ancillary industries, local personal income, and local employment.

Restrict the Take, Possession, Landing, Sale, and Purchase of Nearshore Fish Stocks from Waters off California (proposed amendment to Section 150.17):

This option (Option 3) would likely result in the elimination of the commercial take of nearshore fish stocks. The annual ex-vessel value of commercial landings of nearshore fish stocks in 1999 was approximately \$3.3 million, or the equivalent of \$3.5 million in year 2000 dollars. This could be a fair approximation of the expected economic impact to commercial fishermen of a total commercial closure to the take of nearshore fish stocks in state waters off California. The economic impact to associated fish businesses would be additive to the ex-vessel value impact to the extent that these other fish businesses rely on the purchase and sale of nearshore fish stocks. Using economic multipliers for the State, the projected economic loss of \$3.5 million (ex-vessel), would result in an additional loss of \$3,285,900 to related industries in the State (that rely on or use the ex-vessel products). Consequently, the total economic loss to the State may be as much as \$6.8 million.

Furthermore, as for the hand line/rod-and-reel Option 2 above, the resale and salvage value of existing gear (and vessel), while not quantified

here, is greatly diminished under this option, hampering fishermen's ability to liquidate assets and invest in some other occupation or fishing activity.

The Commission has made an initial determination that the adoption of these regulations may have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states. The Commission has considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit alternative proposals. Submissions may include the following considerations:

- (i) the establishment of differing compliance or reporting requirements or timetables which take into account the resources available to businesses;
 - (ii) consolidation or simplification of compliance and reporting requirements for businesses;
 - (iii) the use of performance standards rather than prescriptive standards; or
 - (iv) exemption or partial exemption from the regulatory requirements for business.
- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:
- Some of the alternatives associated with regulatory options being considered for adoption could result in the elimination of jobs within the state. The most apparent of these are options that would result in significant restriction of commercial fishing for nearshore fish stocks to rod-and-reel fishing gear, and a prohibition on the take, possession, landing, sale, or purchase of nearshore fish stocks from waters off California (Options 2 and 3 under Section 150.17) [also see discussion above under VI(a)]. At a minimum, it is likely that either of these options would result in the need for some commercial nearshore fishermen that now rely on this fishery to consider other lines of work.
- (c) Cost Impacts on a Representative Private Person or Business:
- The cost impacts to a representative private persons or business are generally included in the discussion of impacts under (a).
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal funding to the State: None.
- The costs to the State are discussed at the end of Section IV of the Initial Statement of Reasons under Description of Regulatory Action.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

**CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
LEA Enforcement Assistance Grants**

The regulatory action deals with enforcement assistance grants for Local Enforcement Agencies.

Title 14
California Code of Regulations
ADOPT: 18090.0, 18090.1, 18090.2, 18090.3, 18091.1, 18092.0, 18093.0, 18093.1, 18094.0
AMEND: 18011
Filed 08/26/02
Effective 09/25/02
Agency Contact:
Marie W. Carter (916) 341-6062

**COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
Racial Profiling Course Instructor Requirement**

The proposed regulatory action establishes the Commission's racial profiling course instructor requirements.

Title 11
California Code of Regulations
AMEND: 1070, 1082
Filed 08/27/02
Effective 09/26/02
Agency Contact: Leah Cherry (916) 227-3891

**DEPARTMENT OF AGING
Conflict of Interest; AAA Definition**

The California Department of Aging is filing a nonsubstantive change to its conflict of interest code found at the captioned section. The changes were approved for filing by the Fair Political Practices Commission on August 14, 2002.

Title 22
California Code of Regulations
AMEND: Chapter 1 ; Section 7000
Filed 08/21/02
Effective 09/20/02
Agency Contact:
Patricia Osfeld (916) 323-4580

**DEPARTMENT OF CHILD SUPPORT SERVICES
Case Closure**

This emergency regulatory action adopts the requirements for closing cases pursuant to Title IV-D.

Title 22
California Code of Regulations
ADOPT: 110385, 110449, 110554, 118020, 118203
Filed 08/22/02
Effective 08/22/02
Agency Contact: Lucila Ledesma (916) 464-5087

**DEPARTMENT OF CORRECTIONS
Inmate Classification Score System**

The proposed emergency regulatory action revises the Department's Inmate Classification Score System by implementing changes recommended by the Violent Felon Program Pilot Project. The Department has certified that operational needs of the Department require the emergency adoption of this regulatory action pursuant to Penal Code section 5058.3.

Title 15
California Code of Regulations
ADOPT: 3375.5 AMEND: 3000, 3375, 3375.1, 3375.2, 3375.3, 3375.4, 3377
Filed 08/27/02
Effective 08/27/02
Agency Contact: Mike Smail (916) 327-4028

DEPARTMENT OF FISH AND GAME**CESA—Incidental to Routine and Ongoing Agricultural Activities**

This rulemaking revises the provisions for establishing locally designed, voluntary programs for routine and ongoing agricultural activities on farms or ranches which encourage habitat for candidate, threatened, and endangered species, and wildlife generally pursuant to Fish and Game Code Section 2086.

Title 14

California Code of Regulations

ADOPT: 786.7, 786.8 AMEND: 786.0, 786.1, 786.2, 786.3, 786.4, 786.5, 786.6

Filed 08/28/02

Effective 09/27/02

Agency Contact:

Michael R. Valentine (916) 654-3821

DEPARTMENT OF HEALTH SERVICES**Childhood Lead Poisoning Prevention Fees**

This regulatory action concerns childhood lead poisoning prevention fees. It is exempt from OAL review pursuant to Health and Safety Code section 105310(h).

Title 17

California Code of Regulations

ADOPT: 33001, 33002, 3303, 33004, 33005, 33006, 33007, 33008, 33010, 33011, 33012, 33013, 33014, 33015, 33025, 33050 AMEND: 33020, 33030, 33040 REPEAL: 33001, 33010

Filed 08/22/02

Effective 08/22/02

Agency Contact:

Charles E. Smith (916) 657-0730

DEPARTMENT OF INSURANCE**Defining “Persistency” as Optional Rating Factor**

This rulemaking action provides that the optional rating factor “persistency” may only be used to consider the length of time a consumer has been continuously covered with the present insurer or affiliate, and no other insurer.

Title 10

California Code of Regulations

AMEND: 2632.5(d)(11)

Filed 08/27/02

Effective 09/26/02

Agency Contact: Antonio Celaya (415) 538-4117

DEPARTMENT OF INSURANCE**Holocaust Victim Insurance Relief Act of 1999—Holocaust Ins. Registry**

This readopted emergency rulemaking adopts procedures for insurance companies doing business in California to comply with the reporting requirements of the Holocaust Victim Insurance Relief Act of 1999.

Title 10

California Code of Regulations

ADOPT: 2278, 2278, 2278.1, 2278.2, 2278.3, 2278.4, 2278.5

Filed 08/28/02

Effective 08/28/02

Agency Contact: Leslie Tick (415) 538-4190

DEPARTMENT OF INSURANCE**Organized Automobile Insurance fraud Interdiction**

This Certificate of Compliance amends existing provisions for the assessment and distribution of funds to California district attorneys for the purpose of prosecuting organized automobile fraud cases.

Title 10

California Code of Regulations

AMEND: 2698.73

Filed 08/28/02

Effective 08/28/02

Agency Contact:

Wesley E. Kennedy (916) 854-5766

FISH AND GAME COMMISSION**Yuba River Sport Fishing Regulations**

The regulatory action deals with sport fishing in specified areas of the Yuba River.

Title 14

California Code of Regulations

AMEND: 7.50 (b)(212)

Filed 08/21/02

Effective 08/21/02

Agency Contact: John M. Duffy (916) 653-4899

OCCUPATIONAL SAFETY AND HEALTH (CAL-OSHA) DIVISION**Administrative Adjudicative Regulations**

In this regulatory action, the Division of Occupational Safety and Health of the Department of Industrial Relations sets forth regulations governing administrative adjudicative appeals and hearings applicable when the Division has denied, suspended or revoked a permit, license, certification, registration, or other authorization and when the Division has issued an Order Prohibiting Use. The regulations provide for appeals of these Division actions and detail the specific hearing procedures which will apply upon appeal.

Title 8

California Code of Regulations

ADOPT: 340.40, 340.41, 340.42, 340.43, 340.44, 340.45, 340.46, 340.47, 340.48, 340.49, 340.50, 340.51, 340.52

Filed 08/26/02

Effective 09/25/02

Agency Contact:

Christopher P. Grossgart (415) 703-5080

**OFFICE OF ENVIRONMENTAL HEALTH
HAZARD ASSESSMENT**
Safe Drinking Water and Toxic Enforcement Act of
1986

This action adds a provision deeming prescription drug labeling approved under federal law and the prescriber's practice of obtaining the patient's informed consent concerning the drug to be clear and reasonable warnings under Proposition 65, and a provision deeming accepted practices of obtaining informed consent to be clear and reasonable warnings in cases of emergency or urgent medical care when the patient is incapable of giving consent and there is insufficient time to obtain the informed consent of an authorized person.

Title 22
California Code of Regulations
AMEND: 12601, 12201
Filed 08/27/02
Effective 09/26/02
Agency Contact: Cynthia Oshita (916) 322-2068

STATE WATER RESOURCES CONTROL BOARD
Administering Pesticide Research and Mitigation
Grants

This emergency rulemaking action adopts the requirements for pesticide research and mitigation grants.

Title 23
California Code of Regulations
ADOPT: 3410, 3410.1, 3410.2, 3410.3, 3410.4,
3410.5
Filed 08/27/02
Effective 08/27/02
Agency Contact:
Steven Rodriguez (916) 324-9944

STATE WATER RESOURCES CONTROL BOARD
Electronic Submission of Laboratory data for UST
Reports

The regulatory action is the readoption of emergency regulations dealing with the electronic submission of laboratory data for underground storage tank reports. (Prior OAL files 01-0228-03E and 01-0522-01ER.)

Title 23
California Code of Regulations
ADOPT: 2729, 2729.1
Filed 08/23/02
Effective 09/01/02
Agency Contact:
Michael W. Gjerde (916) 341-5682

**CCR CHANGES FILED WITH THE
SECRETARY OF STATE
WITHIN APRIL 24, 2002 TO
AUGUST 28, 2002**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation's titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 2

08/19/02 ADOPT: 18535
08/14/02 ADOPT: 56, 56.1, 56.2, 56.3, 56.4, 56.5,
56.6, 56.7, 56.8
08/12/02 ADOPT: 1859.71.2, 1859.78.4, 1859.108
AMEND: 1859.50, 1859.70, 1859.72,
1859.73.1, 1859.73.2, 1859.74.1,
1859.75.1, 1859.76, 1859.78.2,
1859.79.3, 1859.81, 1859.81.1, 1859.82,
1859.100, 1859.101, 1859.102, 1859.107
08/12/02 ADOPT: 57.1, 57.2, 57.3, 57.4
08/07/02 ADOPT: 59000
07/31/02 ADOPT: 18450.1
07/25/02 AMEND: 2970
07/11/02 ADOPT: 1859.200, 1859.201, 1859.202,
1859.203, 1859.204, 1859.205, 1859.206,
1859.207, 1859.208, 1859.209, 1859.210,
1859.211, 1859.212, 1859.213, 1859.214,
1859.215, 1859.216, 1859.217, 1859.218,
1859.219, 1859.220
07/11/02 AMEND: 18707.4
07/11/02 AMEND: 554.6
06/27/02 ADOPT: 18450.3, 18450.4, 18450.5
AMEND: 18402
06/27/02 ADOPT: 2351
06/25/02 AMEND: 1189.10
06/20/02 AMEND: 561.2, 561.3
06/20/02 REPEAL: 548.96
06/17/02 AMEND: 18239, 18615, 18616
06/06/02 ADOPT: 18572
05/28/02 ADOPT: 1896.300, 1896.310, 1896.320,
1896.330, 1896.340, 1896.350, 1896.360,
1896.370
05/22/02 AMEND: 571(a)(5)
05/13/02 AMEND: 18428
05/10/02 AMEND: 18351
05/09/02 AMEND: 20202, 20206, 20210, 20224,
20234, 20298, 20350, 20363, 20910
REPEAL: 20106, 20205, 20213

05/02/02 ADOPT: 1859.104.1, 1859.104.2, 1859.104.3 AMEND: 1859.2, 1859.21, 1859.50, 1859.51, 1859.61, 1859.70, 1859.73.1, 1859.73.2, 1859.74.1, 1859.75.1, 1859.76, 1859.78.2, 1859.79.3, 1859.81, 1859.81.1, 1859.82, 1859.91, 1859.95, 1859.100, 1859.101, 1859.102,
04/26/02 ADOPT: 18520 AMEND: 18521, 18523, 18523.1

Title 3

08/19/02 ADOPT: 3664, 3665, 3666, 3667, 3668, 3669
08/14/02 AMEND: 6172, 6192, 6200, 6252
08/13/02 AMEND: 3423(b)
07/25/02 AMEND: 3423(b)
07/23/02 ADOPT: 7015
07/18/02 AMEND: 6000, 6710
07/11/02 AMEND: 3700(b)
07/03/02 AMEND: 1392.1, 1392.2, 1392.4, 1392.9.1
07/01/02 ADOPT: 1180.3.1, 1180.3.2 AMEND: 300(c)
06/20/02 REPEAL: 3431, 3591.17
06/13/02 ADOPT: 1366
06/13/02 AMEND: 2303(t)
06/11/02 AMEND: 3425(b)
06/10/02 AMEND: 3406(b)
06/10/02 AMEND: 6391, 6393, 6394, 6395
06/04/02 AMEND: 3591.16(a)
05/29/02 AMEND: 1380.19, 1436.38, 1446.7, 1454.14, 1462.15
05/16/02 AMEND: 1428.12, 1428.16
05/02/02 AMEND: 3700(a), (b), & (c)

Title 4

08/15/02 ADOPT: 4144
08/13/02 AMEND: 7000, 7001, 7002, 7003, 7003.5, 7004, 7005, 7006, 7007, 7008, 7009, 7010, 7011, 7012, 7013, 7013.1, 7013.5, 7014, 7015, 7016, 7017
08/08/02 AMEND: 8072, 8074
07/30/02 AMEND: 2050
07/08/02 AMEND: 2049
07/01/02 ADOPT: 12100, 12102, 12104, 12106, 12108, 12110, 12120, 12130
05/13/02 ADOPT: 8110, 8111, 8112, 8113, 8114, 8115, 8116, 8117, 8118, 8119, 8120, 8121, 8122, 8123, 8124, 8125
05/07/02 ADOPT: 3005, 3006, 3007, 3008, 3009, 3010 AMEND: 1928

Title 5

08/15/02 ADOPT: 11980, 11981, 11982, 11983, 11984, 11985,
08/13/02 ADOPT: 11969.10 REPEAL: 11969.9

07/31/02 AMEND: 30950, 30951.1, 30952, 30953, 30954, 30955, 30956, 30957, 30958, 30959
07/30/02 ADOPT: 11969.1, 11969.2, 11969.3, 11969.4, 11969.5, 11969.6, 11969.7, 11969.8, 11969.9
07/29/02 AMEND: 3051.16, 3065
07/15/02 AMEND: 80105, 80109, 80110, 80111, 80112, 80113, 80114, 80115
07/12/02 AMEND: 51010, 53000, 53001, 53002, 53003, 53004, 53005, 53006, 53020, 53021, 53022, 53023, 53024, 53025, 53026, 53027, 53030, 53033, 53034
06/28/02 ADOPT: 11983.5
06/11/02 AMEND: 11530, 11531
06/05/02 AMEND: 59311, 59328, 59342
05/21/02 AMEND: 80026.4, 80026.6, 80122
05/20/02 ADOPT: 55205, 55207, 55209, 55211, 55213, 55215, 55217, 55219 AMEND: 55316.5, 58003.1, 58003.3, 58007, 58009, 58051, 58056 REPEAL: 55317, 55352, 55370, 55372, 55374, 55376, 55378, 55380
05/08/02 ADOPT: 80434 AMEND: 80001
05/03/02 ADOPT: 54045.5, 58003.6

Title 8

08/26/02 ADOPT: 340.40, 340.41, 340.42, 340.43, 340.44, 340.45, 340.46, 340.47, 340.48, 340.49, 340.50, 340.51, 340.52
08/05/02 AMEND: 3362
07/31/02 AMEND: 4799
07/30/02 ADOPT: 290.0, 290.1, 291.0, 291.1, 291.2, 291.3, 291.4, 291.5, 292.0, 293.0, 294.0, 295.0
07/11/02 AMEND: 3241(a)
07/01/02 ADOPT: 417.5 AMEND: 406, 411.1, 415, 417.3 REPEAL: 411.2, 411.3, 411.4
06/20/02 AMEND: 3700, 3702
06/18/02 AMEND: 5189
06/12/02 AMEND: 9791.1, 9792.5, 9793, 9795
06/03/02 AMEND: 5034(f)
06/03/02 AMEND: 4885
05/28/02 AMEND: 3650, 3664
05/20/02 AMEND: 32125, 32130, 32140, 32603, 32604, 32720, 32735, 32738, 32739, 32744, 32752, 32763, 32980
05/07/02 ADOPT: 11080, 11090, 11100, 11110, 11120, 11130, 11150 REPEAL: 11080, 11090, 11100, 11130, 11130, 11150
05/06/02 AMEND: 3089
05/02/02 AMEND: 100, 106, 107
05/01/02 ADOPT: 11140 AMEND: 11140
05/01/02 ADOPT: 1716.2 AMEND: 1632, 1635, 1671, 1709, 1710

Title 8, 24

05/08/02 AMEND: 3011(d), 3120.1 and 3122.0

Title 9

07/31/02 ADOPT: 9851, 9874 AMEND: 9800, 9846, 9852, 9854, 9856, 9858, 9867, 9876, 9884, 9886 REPEAL: 9857

06/28/02 ADOPT: 9526, 9531 AMEND: 9500, 9505, 9515, 9530, 9535

Title 10

08/28/02 ADOPT: 2278, 2278.1, 2278.2, 2278.3, 2278.4, 2278.5

08/28/02 AMEND: 2698.73

08/27/02 AMEND: 2632.5(d)(11)

08/20/02 ADOPT: 1729, 1741.5, 1950.302 AMEND: 1741.5

08/19/02 AMEND: 2130.3

08/15/02 ADOPT: 5480, 5480.1, 5480.2, 5480.3, 5480.4, 5480.5, 5480.6, 5480.7, 5480.8

08/12/02 AMEND: 2318.6

08/12/02 AMEND: 2318.6, 2353.1

08/05/02 REPEAL: 310.100.1

07/10/02 ADOPT: 1422, 1423

07/02/02 AMEND: 6070

06/24/02 ADOPT: 2698.68

06/20/02 ADOPT: 2729.5, 2790.6, 2846.1 AMEND: 2790.1, 2791.8, 2792, 2800, 2810, 2811, 2910, 2911, 2912, 2930

06/20/02 AMEND: 2498.6

06/17/02 ADOPT: 2193, 2193.1, 2193.2, 2193.3

06/07/02 AMEND: 5.2001 and Appendix

06/06/02 AMEND: 2698.70, 2698.71 REPEAL: 01-1219-06 E

06/03/02 ADOPT: 2192.1, 2192.2, 2192.3, 2192.4, 2192.5, 2192.6, 2192.7, 2192.8, 2192.9, 2192.10, 2192.11, 2192.12, 2192.13

06/03/02 ADOPT: 2187.3 AMEND: 2186.1, 2187.1, 2187.2

05/01/02 ADOPT: 2278, 2278.1, 2278.2, 2278.3, 2278.4, 2278.5

04/29/02 ADOPT: 1729, 1741.5, 1950.302 AMEND: 1741.5

04/29/02 ADOPT: 2699.6606, 2699.6711, 2699.6631, 2699.6631, 2699.6717 AMEND: 2699.6500, 2699.6600, 2699.6605, 2699.6607, 2699.6611, 2699.6613, 2699.6617, 2699.6623, 2699.6625, 2699.6629, 2699.6700, 2699.6703, 2699.6705, 2699.6709, 2699.6800, 2699.6801, 2699.6809

Title 11

08/27/02 AMEND: 1070, 1082

08/13/02 AMEND: 1005

07/02/02 ADOPT: 410, 411, 415, 416, 417, 418, 419, 419.1, 419.2, 419.3, 420, 421, 422,

423, 424, 425, 426 REPEAL: 410, 411, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426

07/01/02 AMEND: 1081

06/27/02 AMEND: 987.1

06/19/02 ADOPT: 999.10, 999.11, 999.12, 999.13, 999.14, Appendix A

05/24/02 AMEND: 1005

05/21/02 AMEND: 1005

05/06/02 ADOPT: 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 48

04/26/02 AMEND: 1005, 1008

04/25/02 ADOPT: 1081(a)(32)

Title 13

07/25/02 AMEND: 422.01

07/22/02 ADOPT: 2444.2 AMEND: 2111, 2112, 2139, 2140, 2147, 2440, 2441, 2442, 2443.1, 2443.2, 2443.3, 2444, 2445.1, 2445.2, 2446

07/10/02 AMEND: 1213.1, 1230, 1239

07/05/02 ADOPT: 225.00, 225.03, 225.06, 225.09, 225.12, 225.15, 225.18, 225.21, 225.24, 225.27, 225.30, 225.33, 225.36, 225.39, 225.42, 225.45, 225.48, 225.51, 225.54, 225.57, 225.60, 225.63, 225.66, 225.69, 225.72

06/24/02 ADOPT: 1962.1 AMEND: 1900, 1962

06/24/02 AMEND: 1270

06/18/02 AMEND: 1

06/03/02 AMEND: 565

05/24/02 AMEND: 1900, 1960.1 (k), 1961, 1962 & the Incorporated Test Procedure

04/29/02 AMEND: 350.44

Title 14

08/28/02 ADOPT: 786.7, 786.8 AMEND: 786.0, 786.1, 786.2, 786.3, 786.4, 786.5, 786.6

08/26/02 ADOPT: 18090.0, 18090.1, 18090.2, 18090.3, 18091.1, 18092.0, 18093.0, 18093.1, 18094.0 AMEND: 18011

08/21/02 AMEND: 7.50 (b)(212)

08/13/02 ADOPT: 844.3, 844.4, 844.5 AMEND: 790, 840, 840.1, 841, 842, 843, 843.1, 843.2, 843.3, 843.4, 843.6, 843.7, 843.8, 843.9, 844, 844.1, 844.2, 844.6, 844.7, 845, 845.1, and 845.2

08/12/02 ADOPT: 150.02, 150.04

08/09/02 AMEND: 670.2

08/06/02 AMEND: 28.59

07/31/02 ADOPT: 50.00, 50.01, 50.02, 50.03, 51.00, 51.01, 51.02, 51.04, 51.05, 155.01, 155.05, 155.10 AMEND: 109

07/25/02 ADOPT: 18085, 18086, 18087, 18088
AMEND: 18011, 18056

07/25/02 AMEND: 791.7; Forms FG OSPR-1925,
FG OSPR-1947, and FG OSPR-1972.

07/17/02 AMEND: 2090, 2105, 2420, 2425, 2530,
2690 renumbered to 2850

07/15/02 ADOPT: 916.13, 936.13, 956.13,
916.13.1, 936.13.1, 956.13.1, 916.13.2,
936.13.2, 956.13.2, 916.13.3, 936.13.3,
956.13.3, 916.13.4, 936.13.4, 956.13.4,
916.13.5, 936.13.5, 956.13.5, 916.13.6,
936.13.6, 956.13.6, 916.13.7, 936.13.7,
956.13.7, 916.13.8, 936

07/12/02 AMEND: 895.1, 898, 914.8, 934.8,
954.8, 916, 936, 956, 916.2, 936.2, 956.2,
916.9, 936.9, 956.9, 916.11, 936.11,
956.11, 916.12, 936.12, 956.12, 923.3,
943.3, 963.3, 923.9, 943.9, 963.9

06/28/02 ADOPT: 708 AMEND: 265, 308, 360,
361, 362, 363, 364, 365, 367, 368, 401,
555, 601, 711 REPEAL: 370, 371, 372,
373

06/27/02 ADOPT: 4971

06/25/02 AMEND: 7.50

06/24/02 AMEND: 791, 791.5, 791.7, 792, 793,
794, 795, 796, and 797.

06/20/02 ADOPT: 17211, 17211.1, 17211.2,
17211.3, 17211.4, 17211.5, 17211.6,
17211.7, 17211.8, 17211.9

06/19/02 AMEND: 2030

06/19/02 AMEND: 2135

06/18/02 AMEND: 11900

06/13/02 ADOPT: 17402.5(c)(6), 17402.5(d)(3)
AMEND: 17400, 17402, 17402.5

06/06/02 ADOPT: 749.1

06/05/02 AMEND: 1.1, 6159, 6170, 6170.5, 6171,
6179, 6184, 6185, 6200, 6206, 6222,
6243, 6254, 6255, 6262

05/30/02 AMEND: 1104.1

05/23/02 ADOPT: 52.10

05/22/02 AMEND: 1037.4, 1092.19

05/21/02 ADOPT: 17367, 17368, 17369, 17370.1,
17370.2, 18225

05/20/02 AMEND: 149

04/29/02 AMEND: 27.80

Title 14, 27

06/21/02 AMEND: 18104.8, 18105.9, 18105.10,
21140

Title 15

08/27/02 ADOPT: 3375.5 AMEND: 3000, 3375,
3375.1, 3375.2, 3375.3, 3375.4, 3377

08/19/02 ADOPT: 3426

07/24/02 ADOPT: 3220.2, 3220.3 AMEND: 3220,
3220.1

07/12/02 AMEND: 3000, 3454, 3456, 3457, 3458,
3459, 3460, 3462, 3463, 3464

05/08/02 ADOPT: 4746.5
05/06/02 AMEND: 3104

Title 16

08/20/02 AMEND: 1382.3

08/08/02 AMEND: 1707.2

08/07/02 ADOPT: 4140, 4141, 4142, 4143

08/01/02 ADOPT: 3367, 3368

07/31/02 AMEND: 2473

07/30/02 AMEND: 1399.523

07/26/02 AMEND: 3340.16, 3340.16.5, 3340.17,
3340.32, 3340.42, 3340.50 REPEAL:
3340.16.7

07/17/02 AMEND: 1387.1

07/03/02 AMEND: 3394.4 and 3394.6

07/01/02 ADOPT: 638, 639, 640, 641

06/12/02 ADOPT: 4, 9, 12, 12.5, 13, 14 AMEND:
6, 7, 9, 9.1, 10, 11.5, 37, 50

06/03/02 AMEND: 2034, 2036

05/29/02 ADOPT: 980.1 AMEND: 974

05/28/02 AMEND: 3340.42

05/24/02 ADOPT: 832.06 AMEND: 832.05

05/21/02 ADOPT: 1356.5

05/21/02 AMEND: 2006

05/21/02 ADOPT: 2412 AMEND: 2411, 2418

05/16/02 AMEND: 832.54

05/08/02 AMEND: 832.09

05/02/02 AMEND: 3303, 3353, 3361.1

Title 17

08/22/02 ADOPT: 33001, 33002, 3303, 33004,
33005, 33006, 33007, 33008, 33010,
33011, 33012, 33013, 33014, 33015,
33025, 33050 AMEND: 33020, 33030,
33040 REPEAL: 33001, 33010

08/20/02 ADOPT: 93112

08/19/02 ADOPT: 94164, 94165 AMEND: 94010,
94011, 94153, 94155, 94163,

08/08/02 AMEND: 30253

08/08/02 AMEND: 58420

07/22/02 ADOPT: 93105

07/17/02 ADOPT: 2638 AMEND: 2500, 2502,
2505, 2551, 2552, 2553, 2596, 2614

06/28/02 AMEND: 6508

06/10/02 AMEND: 90700, 90701, 90702, 90703,
90704, 90705 & to the tables in Section
90705

05/16/02 AMEND: 6508

05/02/02 ADOPT: 2641.5, 2641.10, 2641.15,
2641.20, 2641.25, 2641.30, 2641.35,
2641.45, 2641.50, 2641.55, 2641.60,
2641.65, 2641.70, 2641.75, 2641.77,
2641.80, 2641.85, 2641.90, 2643.5,
2643.10, 2643.15, 2643.20.

Title 18

08/20/02 AMEND: 1528

08/19/02 AMEND: 1543

07/02/02 ADOPT: 1533.2
 06/11/02 ADOPT: 1123, 1124, 1161, 1178, 1435, 1436 AMEND: 1101, 1105, 1120, 1132, 1134, 1420, 1422, 1430 REPEAL: 1103, 1104, 1106, 1107, 1108, 1114, 1115, 1116, 1117, 1118, 1119, 1121, 1131, 1133, 1151, 1152, 1153, 1154, 1155, 1171, 1172, 1173, 1174, 1175, 1176
 06/11/02 ADOPT: 255, 263, 264, 265 AMEND: 252, 254, 261, 304 REPEAL: 253, 256, 262
 06/11/02 AMEND: 21 REPEAL: 23, 24, 25, 26
 06/07/02 AMEND: 1533.1
 06/07/02 ADOPT: 1533
 06/07/02 ADOPT: 1525.7
 06/06/02 ADOPT: 1507
 06/05/02 AMEND: 1111, 1122, 1137, 1177, 1413, 1470; section 1470 withdrawn from the instant filing.
 06/04/02 AMEND: 135
 05/29/02 AMEND: 23101.5
 05/20/02 ADOPT: 138
 05/16/02 ADOPT: 139
 05/15/02 AMEND: 1699
 05/14/02 AMEND: 905
 05/14/02 AMEND: 1603
 05/13/02 ADOPT: 1434
 05/13/02 ADOPT: 4011 AMEND: 4061

Title 19

05/22/02 ADOPT: 2000
 05/16/02 REPEAL: 596.15 & 596.16, Article 12 thru Article 23 {all duplicated in the code}

Title 20

06/03/02 ADOPT: 1342, 1343, 1344 AMEND: 1302, 1303, 1306, 1307, 1308, 1340, 1341, 2503, 2505, 2507 REPEAL: 1342, 1343, 1344, 1349

Title 22

08/27/02 AMEND: 12601, 12201
 08/22/02 ADOPT: 110385, 110449, 110554, 118020, 118203
 08/21/02 AMEND: Chapter 1; Section 7000
 08/14/02 ADOPT: 111560
 08/06/02 ADOPT: 66273.6, 66273.80, 66273.81, 66273.82, 66273.83, 66273.84, 66273.85, 66273.86, 66273.87, 66273.68, 66273.69, 66273.90 AMEND: 66271.9, 66273.1, 66273.8, 66273.9
 08/06/02 ADOPT: 63000.17, 63000.47, 63000.66, 63000.70, 63000.81, 63000.84, 63000.85, 63000.86, 63000.87, 63000.88, 63015, 63058 AMEND: 63000.19, 63000.37 (and renumbered to 63000.67), 63000.40, 63000.43, 63000.62, 63000.86 (and renumbered to 63000.89), 63000.89

08/05/02 AMEND: 68200, 68201, 68202, 68203, 68204, 68205, 68206, 68207, 68208, 68209, 68210, 68211, 68212, 68213, 68214
 08/01/02 AMEND: 66262.54, 66264.71, 66264.72, 66265.71, 66265.72, 66270.30, Appendix
 07/22/02 ADOPT: 111550
 07/18/02 AMEND: 12705, 12805
 07/16/02 AMEND: 51503, 51503.2, 51504, 51505.1, 51505.2, 51505.3, 51507, 51507.2, 51507.3, 51509, 51509.1, 51514, 51517, 51521, 51527, 51527, 51529, 51535.5
 07/15/02 ADOPT: 64860
 07/03/02 ADOPT: 66268.31.5 AMEND: 66261.32, 66261.33, Ch. 11 App. VII, Ch. 11 App. VIII, 66268.7, 66268.33, 66268.39.5, 66268.40 and table entitled "Treatment Standards for Hazardous Wastes, 66268.48, 66268.49, Ch. 18 App. VII.
 06/19/02 ADOPT: 67900.1, 67900.2, 67900.3, 67900.4, 67900.5, 67900.6, 67900.7, 67900.8, 67900.9, 67900.10, 67900.11, 67900.12
 06/10/02 ADOPT: 100178.1 AMEND: 100177, 100178
 04/30/02 AMEND: 51515(c), 51515(e), 51518(b), 51521(1), 51527(b)

Title 23

08/27/02 ADOPT: 3410, 3410.1, 3410.2, 3410.3, 3410.4, 3410.5
 08/23/02 ADOPT: 2729, 2729.1
 08/08/02 AMEND: 3953
 07/30/02 AMEND: 2910
 07/18/02 ADOPT: 3936
 07/16/02 ADOPT: Publish new section 3935
 06/07/02 ADOPT: 510, 511, 512, 513, 514, 515, 516, 517
 05/23/02 ADOPT: 3962
 05/03/02 AMEND: 3961

Title 25

04/26/02 AMEND: 7060, 7062.1, 7078.2, 7078.4, 7078.5

Title 27

07/23/02 ADOPT: 10010(a), 10010(b), 10010(c), 10010(d) REPEAL: 10010
 05/09/02 AMEND: 22200, 22228, 22233, 22248, Form CIWMB 106 (08/2001)

Title 28

08/19/02 ADOPT: 1300.73.21
 08/12/02 ADOPT: 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008
 07/17/02 ADOPT: 1300.67.05
 07/08/02 REPEAL: 1300.75.4.2, 1300.75.4.4
 04/24/02 ADOPT: 1300.41.8

08/09/02 AMEND: 80001, 80006, 80061, 80065, 80068.3, 80071, 80075, 80077.2, 80077.3, 80077.4, 80087, 80090, 80092.1, 80092.2, 80092.3, 80092.4, 80092.6, 80092.7, 80092.8, 80092.9, 80092.10, 80092.11 REPEAL: 80095

08/09/02 ADOPT: 80075.1, 82075.2, 87575.2, 87925 AMEND: 80001, 80061, 82001, 82061, 87101, 87561, 87801, 87861

08/07/02 AMEND: 101218.1, 102419, 102421

08/01/02 AMEND: 87101, 87565, 87566, 87568, 87589

07/24/02 ADOPT: 110000, 110042, 110046, 110088, 110099, 110109, 110129, 110135, 110147, 110148, 110150, 110164, 110182, 110184, 110186, 110194, 110200, 110220, 110224, 110230, 110252, 110261, 110289, 110341, 110410, 110431, 110436,, 110445, 110456, 110474, 110478,

07/23/02 ADOPT: 87227.1, 87583.1 AMEND: 80007(a), 87101(s), 87107(a), 87114, 87118(a), 87222(a), 87561(a)(1)(A), 87585(a), 87587, 87700, 87702, 87807(a), 87854(d)

06/26/02 ADOPT: 89202, 89261, 89319, 89323, 89370, 89372, 89374, 89376, 89388, 89400, 89405 AMEND: 87000, 87001, 87005, 87006, 87007, 87009, 97010, 97010.1, 87010.2, 87017, 87018, 87019, 87019.1, 87019.2, 87020, 87021, 87024, 87026, 87027, 87028, 87029, 87031

05/29/02 ADOPT: Title 22 section 119184 REPEAL: MPP section 12-225.3

05/02/02 ADOPT: 110411, 110625, 111110, 111120, 111210, 111220, 111230 REPEAL: MPP 12-000, 12-003, and Appendix I

Title MPP

08/06/02 AMEND: 63-102, 63-103, 63-300, 63-301, 63-503

08/01/02 AMEND: 42-701.2(w), 42-710.1, 42-710.2, 42-710.3, 42-711.522(c)(1), 42-

711.544, 42-711.91, 42-711.931, 42-711.941, 42-712.441(a), 42-718.21, 42-719.11, 42-719.111, 42-719.2, 42-719.3, 42-721.511(d)

08/01/02 AMEND: 40-181.1(e); 42-710.6; 42-711.5, .6, & .8, 42-721.1&.4; 44-314.1&.2; 80-301(r); 82-812.6

07/26/02 AMEND: 63-402

07/24/02 ADOPT: 16-702

07/22/02 ADOPT: 40-188.136, 40-188.16, 40-188.21 AMEND: 40.101.11, 40-188.11, 40-188.12, 40-188.13, 40-188.131, 40-188.132, 40-188.133, 40-188.137, 40-188.138, 40-188.15, 40-188.17, 40-188.22, 40-188.23, 40-188.24, 40-188.25, 40-190.22

07/03/02 ADOPT: 69-209, 69-210 AMEND: 69-201, 69-202, 69-203, 69-204, 69-205, 69-206, 69-207, 69-208, 69-211, 69-212, 69-213, 69-214, 69-215, 69-216, 69-217, 69-301, 69-302, 69-303, 69-304, 69-205, 69-306 REPEAL: 69-210, 69-221

06/28/02 ADOPT: 40-107.141, 40-107.142, 40-107.143, 40-107.144, 40-107.15, 40-107.151, 40-107.152, 42-302.114, 42-302.114(a)-(c), 42-302.21(h)(1), 42-302.3, 44-133.8, 82-833 AMEND: 40-107.14, 40-107.16, 40-107.17, 40-107.18, 40-107.19, 42-301.2, 44-133.51, 82-8

06/25/02 AMEND: 31-001, 31-002, 31-075, 31-401, 31-405, 31-410, 31-420, 31-440, 31-445

05/09/02 ADOPT: 44-302 AMEND: 25-301, 25-302, 25-303, 25-304, 25-305, 25-306, 25-310.3, 25-330.9, 25-506, 44-304, 44-305, 44-325, 44-327, 80-310

04/26/02 ADOPT: 16-001, 16-003, 16-005, 16-010, 16-015, 16-105, 16-120, 16-130, 16-201, 16-215, 16-301, 16-310, 16-315, 16-320, 16-325, 16-401, 16-410, 16-501, 16-505, 16-510, 16-515, 16-517, 16-520, 16-601, 16-610, 16-701, 16-750, 16-801 AMEND: 20-300, 44-302,

